

Pl. XVII



Quicapi.

Kickapoos: Indigènes originaires des frontières du Canada, émigrés dans le Nord du Texas.

*Les couleurs y ont été
ajoutées par M. de la Roche.*

The Kiwikapawa/Quicapu/Kickapoo: In A Historical Way Station

J. William (Bill) Goold

On the Cover: The Kickapoo Indians, along with Lipan Apaches, raided north across the Rio Grande into Texas, while Comanche and Kiowa swept down from the Plains to raid into Mexico. Source: Gilcrease Museum, Tulsa, Oklahoma.

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A HISTORICAL WAY STATION

A student asked, "Can essential Nature be destroyed?" Coyote said, "Yes, it can." The student asked, "How can Essential Nature be destroyed?" Coyote said, "With an eraser."

— Robert Aitken, College Composition and Communication

I hear voices. From Shakespeare's last great play, *The Tempest*. There is Prospero, the privileged, well-educated master, who speaks to his deformed and presumed illiterate Native slave. "Thou didst not, savage/know thy own meaning, but wouldst gabble like/ a thing most brutish," Prospero says. Having been robbed of his West Indies island, given what was thought to be his first language, and trained to speak, Caliban replies, "You taught me language, and my profit on't/is I know how to curse. The red plague rid you/for learning me your language."¹

Having reputedly drawn upon the ship logs of Christopher Columbus, the Great Bard helped set in motion from initial cross-cultural contact the poisonous civilization versus primitivism dynamic to frame inexorably the relationship between non-Indigenous and Indigenous peoples. It remains at work, seeking to deny tribes their own identities, languages, cultures, and histories, and adding to the vast Western cultural archive, which stretches back several centuries.² It gained momentum throughout the Enlightenment and it still animates Euro-American imperialism and neocolonialism.

Closer to home in the North American context, there is the voice of Frederick Jackson Turner presenting his profoundly influential essay on the importance of the frontier in American history before the American Historical Association in 1893. His timing and conceptualization for mainstream society could not have been better, so the rest is history, as the saying goes. The

¹ William Shakespeare, *The Tempest*, act 1, scene 2.

² Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (New York: Zed Books, 1999), 44.

power of Turner's positivist interpretation of the colonization and settlement of the American West and the mythical appeal of his narrative of "American exceptionalism" still hold significant sway today. But the passage of time has proven Richard Hofstadter, a highly regarded mainstream American historian in his own right in the succeeding generation, to have been correct in his characterization of Turner as a flawed American progressive. Specifically, he noted that Turner was impressed by:

...the achievement of America, [but] he had little countervailing response to the shame of it—to such aspects of Western development as riotous land speculation, vigilantism, the ruthless despoiling of the continent, the arrogance of American expansionism, the pathetic tale of the American Indians, anti-Mexican and anti-Chinese nativism. Such aspects of the westward movement did not arouse his indignation or inspire him to use history as an instrument of intellectual or social criticism.³

Postmodernism writ large and the growing resonance of postcolonial criticism are the intellectual forces that have really played havoc with Turner's scholarship. This discourse has exposed many of Turner's professional shortcomings, revealing the dominant society biases of racism and sexism that he shared with many of his contemporaries, inside and outside of academic circles.

There is the voice of Vine Deloria, Jr., in 1969, reminding us that Custer died for our sins and that the U.S. government was waging a modern war of cultural extermination against scores of Native American tribes, as recently as fifty years ago.⁴ Witness the emergence of Native American Studies in a smattering of universities across the U.S. and Canada to discomfort the Western Academy, to function as an unsettling, interdisciplinary beachhead and intellectual testing ground, and to become a cross-cultural twilight zone of sorts for all those who enter.

³ Allan G. Bogue, "Frederick Jackson Turner Reconsidered," *The History Teacher*, vol. 27, no. 2 (1994): 206.

⁴ Vine Deloria, Jr., *Custer Died for Your Sins: An Indian Manifesto* (Norman: University of Oklahoma Press, 1969), 54-55.

I hear the disquieting voice of Edward Said from the late 1970s, focused on a different region of the world – the crossroads of the Mediterranean where the Occident and the Orient co-mingle and coexist and Indigenous peoples, as usual, are caught in the maelstrom. With command of encyclopedic-like knowledge in search of global commonalities and with the precision of a surgeon, he unmask the essential organizing principle of “the Other” underpinning Western ontology and epistemology, which he labels Orientalism, and reveals how it serves to define reality and identity by that which the scientifically-trained, self-proclaimed objective researcher is. Much of human history has been theorized, recorded, documented, interpreted, and written accordingly, including most of what is currently categorized as Native American history. Said’s probing, seminal questions of the human experience resound:

“How does one represent other cultures? What is another culture? Is the notion of a distinct culture (or race, or religion, or civilization) a useful one, or does it always get involved either in self-congratulation (when one discusses one’s own) or hostility and aggression (when one discusses the “other”)? Do cultural, religious, and racial differences matter more than socio-economic categories, or politico-historical ones? How do ideas acquire authority, “normality,” and even the status of “natural” truth? What is the role of the intellectual? Is s/he there to validate the culture and state of which s/he is a part? What importance must s/he give to an independent critical consciousness, an oppositional critical consciousness?”⁵

In the late 1980s, Gayatri Chakravorty Spivak came forward to decry Western philosophers of history (whether economic determinists like Karl Marx or poststructuralists recently like Michel Foucault and Gilles Deleuze more recently) as co-opting, Eurocentric essentialists, masquerading as foundational critics of colonialism and imperialism, all the while “re-presenting” for ‘the Other’ and continuing to serve as accomplices of dominant nation state ideologies. On behalf of marginalized, colonized peoples everywhere, Spivak skeptically has called the question: “On the other side of the international division of labor from socialized

⁵ Edward W. Said, *Orientalism* (New York: Random House, 1979), 325-326.

capital, inside and outside the circuit of the epistemic violence of imperialist law and education supplementing an earlier economic text, *can the subaltern speak?*”⁶

Unruly, clear, and concise, there is the calling of Linda Tuhiwai Smith and her Maori compatriots from New Zealand. She is in the heart of the key battleground that is research between Western epistemology, privileged methodologies, and exclusive methods and contrarian Indigenous ways of being, living, thinking, interpreting, and evaluating, not the least of which is the positioning of human beings in space, place, and time.

“A critical aspect of the struggle for self-determination has involved questions relating to our history as indigenous peoples and a critique of how we, as the Other, have been represented or excluded from various accounts. Every issue has been approached by indigenous peoples with a view to rewriting and rereighting our position in history. Indigenous peoples want to tell our own stories, write our own versions, in our own ways, for our own purposes.”⁷

Clearly, the decolonization of that which has been written and recycled as Native American history is imperative. The painstaking work of researching and writing back to the bastion of Western historians, acting as exclusive gatekeepers, is at hand. Enough of the privilege and presumed superiority of Western knowledge, the attendant sniping and disdain, and the unacceptable dehumanization of Indigenous worldviews from the self-satisfied, critical high ground of the Ivory Tower. There are missing, more expansive worldviews and histories worthy of respect, inquiry, and inclusion.

Herein, I use critical theory primarily as a tool to explore a broader vision of Native American history. That particular research paradigm enables me to work in alliance and support of Native American scholars and students in this field, while also helping counterbalance the

⁶ Gayatri Chakravorty Spivak, “Can the Subaltern Speak?” in *Marxism and the Interpretation of Culture*, eds. C. Nelson and L. Grosberg (Basingstroke: Macmillan Education, 1988), 78.

⁷ Smith, *Decolonizing Methodologies*, 28.

many incomplete and inaccurate tribal histories that have been written and published uncritically for far too long because oral traditions, for example, have been frowned upon.

Indeed, are oral traditions inherently less reliable, legitimate, and valuable as historical sources than written documentation? Must ontology, epistemology, axiology, and history be compartmentalized? Why are they organized, fenced, and policed that way in Western academic circles and intellectual discourse? Perhaps it may prove possible to bring forward and construct a different reality in which decolonized tribal histories will come to be viewed as equally important and authentic historical perspectives to those of more orthodox historians who are steeped in the mindset of colonizers.

Cutting through the thick, academic nomenclature of the Western Academy and the argumentative jockeying of postcolonial criticism, I can hear Eli Taylor, a Dakota elder, voicing his own unadorned history to the Dakota family who adopted him. He speaks of the tribal origins, history, values, and life ways of the Dakota people, while also relating them to the mysterious powers of the world. His stories come alive in his tribal language, as do other oral traditions such as song, prayer, and ceremonies. Together, they express a complex and systematically devalued historical consciousness far deeper and more layered than previously imagined by mainstream historians.⁸ Simon Ortiz offers another powerful example of reasserting control over his tribe's cultural sovereignty in the singing of Dzeerlai, his Pueblo uncle.⁹ Dzeerlai and his singer-partners were nativizing the historical experience of colonization in a naturally authentic way within the context of their Acumeh community across centuries.

⁸ Waziyatwin Angela Wilson, *Remember This! Dakota Decolonization and the Eli Taylor Narratives* (Lincoln: University of Nebraska Press, 2005), 92-98.

⁹ Simon Ortiz, "Towards a National Indian Literature: Cultural Authenticity in Nationalism," *Ethnic Literature and Cultural Nationalism*, vol. 18, no. 2 (1981): 122.

As a lifelong student of colonized history (that which is written and published by the mainstream, ostensibly victorious Euro-American colonizers), I have been schooled ideologically and inundated by the corresponding teachings of entrenched positivist and post-positivist research, analysis, and interpretation. Undoubtedly, there are powerful forces constantly at work, of course, leading the uncritical to believe what exclusively matters in American history dates from cross-cultural, Old World-New World contact.

Looking backward, for instance, consider the treatment of Native Americans in the history textbooks that have been used in our public schools for centuries – the only exposure that most Americans ever have to learning about Indigenous cultures in North America and elsewhere. The historian Frances Fitzgerald has closely investigated this treatment. During the 1830s and 1840s, “the Native Americans are presented as interesting, important people – in spite of the fact that they are not Christians,” Fitzgerald writes. Quoting the Reverend Charles A. Goodrich from 180 years ago, the Indians are “quick of apprehension, and not wanting in genius,” “friendly,” “distinguished for gravity and eloquence [and] bravery.” Nonetheless, the comparatively high regard began to erode in the texts of the later 1840s and steadily declined throughout the remainder of the 19th century. More specifically, after the Civil War, textbook writers devoted less space to Native Americans, commonly describing them as “savage,” “barbarous,” “half-civilized,” “treacherous,” “cruel,” “tyrannical to women,” “idolatrous,” “lazy,” “vengeful,” and “given to torture.” Continuing this demeaning pattern, they were uniformly characterized as lazy, childlike, and cruel between the 1890s and 1920s. Then, in the 1930s, Native Americans disappeared inexplicably from high school textbooks altogether, as was any reference to their treatment by non-Natives, while a few textbooks in the lower grades alluded to them as “colorful, exotic, child-like people” stereotypically caricatured in cigar stores

and the movies. Subsequently, even those gross misrepresentations essentially evaporated during the 1940s and 1950s. Curiously, by the mid-1960s and coinciding with the onset of the counterculture in mainstream society (just as I was entering high school), Native Americans reappeared in some textbooks, but essentially as victims of a rapacious federal government and a nihilistic mainstream culture. As Fitzgerald succinctly describes, “The Indians, in other words, had become a function of the Vietnam War.” Finally, in the 1970s and largely in response to increased Native American activism, texts began to regard Native Americans as more than objects of federal policy.¹⁰

Fortunately, expanding postcolonial criticism of history and other disciplines more recently, in combination with my life experience, intuition, and ethics, strongly suggest that more than cognitive powers and my academic indoctrination are involved. I am freshly confronted with a cascading series of questions. *What is Native American history currently? What should it be? What is a tribal history now? How would a decolonized tribal history sound, read, and feel under foot?*

I am challenged to join Peter Nabokov in *A Forest of Time* and consider views from ‘the Other’ side of Turner’s frontier, namely, to pursue what anthropologist Fred Eggan hoped would start happening in 1961: “The future writers on Indian history will give us the other side of the coin emphasizing the Indian’s view of his world.”¹¹

In the search for answers, it is also very important to take stock of the emergence, development, and impacts of the New Western History movement among mainstream American scholars, researchers, and students during the past quarter century. This genre is an outgrowth of

¹⁰ Frances Fitzgerald, *America Revised* (Boston: Little, Brown and Company, 1979), 89-93.

¹¹ Peter Nabokov, *A Forest of Time: American Indian Ways of History* (Cambridge: Cambridge University Press, 2002), 15.

the application of social science theories, methodologies, and methods, such as critical theory and constructivism, to different facets of American history, starting in the 1950s and 1960s. The systematic, scholarly deconstruction of Turner's frontier thesis by succeeding generations of social historians has particularly yielded an outpouring of women's history, urban history, environmental history, ethno-history, and labor history. It began to blossom in 1991 with the publication of *It's Your Misfortune and None of My Own: A History of the American West*, by Richard White and was galvanized, as a discourse, in *Trails: Toward A New Western History*, edited by Patricia N. Limerick, Clyde A. Milner II, and Charles Rankin.¹² This revisionist wave of new western historians has created valuable intellectual space and brought different sensibilities to bear, including the need for more minority and marginalized perspectives. They purport to be telling the story of the American West as the history of all the people in this region, not limited to the successes of striving, climbing white men who conquered an unpopulated wilderness. Where then, one might ask, are the decolonized tribal histories in their body of work? Aren't there serious gaps remaining to be filled by new and different presentations of Native American history and the veritable forest of culturally distinct tribal histories therein? An extended inquiry into cross-cultural historiography beckons, in a unifying quest for a more holistic consciousness and understanding of human history – one that is truly more post-colonial. It is time for a twisting and turning of kaleidoscopic perspectives that could be more fully informed by the unleashed knowledge, unique historical experiences, different worldviews, and Native historicity of the pre-colonized and colonized.

Alas, I am not alone at this way station. Again, Fitzgerald is among the growing number of Native and non-Native scholars, writers, and researchers who sense and recognize the void to

¹² Bogue, "Frederick Jackson Turner Reconsidered," 209-210.

be filled. “The current version of the history of racial minorities in America [including Native Americans] represents the compromise that the publishers have made among the conflicting demands of a variety of pressure groups, inside and outside the school systems. ...It is interesting to ask at this point what a truly ‘multiracial, multicultural’ history text would look like.”¹³

Finally, this brings me to the concurrent onset of Indigenism in recent decades and the great promise that Indigenous scholarship and research holds for a more complete and illuminating body of Native American history. Indigenous ontology and epistemology are fundamentally different from their Euro-American-centric counterparts. Consequently, the histories of tribal cultures must be anchored in relationality and researched accordingly. The histories will be intrinsically lacking and misleading, if they dismiss or fail to attempt to access oral traditions in Native languages and translate the historical knowledge and teachings that reside therein. *Remember This! – Dakota Decolonization and the Eli Taylor Narratives* by Waziyatawin Angela Wilson is powerful, contextualized evidence in this regard. Similar examples are the oral histories of some Montana tribal elders recorded by Francine Spang Willis and preserved in the Western History Center in Billings, Montana.¹⁴

Fortunately, significant progress has been made in recent years in the layered, unfolding development of at least one Indigenous research paradigm that ought to be pursued by earnest scholars of Native American history. I agree with Shawn Wilson that there are unacceptable shortcomings associated with stopping in the next-to-last stage of the search, focusing too much upon trying to decolonize orthodox, non-Indigenous history and adapt dominant research

¹³ Fitzgerald, *America Revised*, 102.

¹⁴ Francine Bear Don’t Walk, *American Indian Tribal Histories Project* [video recording] (Western Heritage Center, 2005), 5 videodiscs, c.a. 162 minutes.

paradigms for Indigenous purposes.¹⁵ In fact, many of the same persuasive arguments that Craig Womack makes in support of Native literature and Native literary criticism being part of cultural sovereignty could also be readily applied to Native American history. Regarding written histories, he references Anna Lee Walters and states, “Scholars or authorities from academia, from outside tribal societies, do not necessarily know tribal people best. There is an inherent right of tribal people to interpret events and time in their worlds according to their own aesthetics and values, as a component of American history, even when this interpretation is different from that of mainstream history,’ and I might add, *especially*, when the interpretation is different from that of the mainstream.”¹⁶ Clearly, an Indigenous prism is also needed to bend historical light differently and counterbalance centuries of intellectual and research hegemony that has been exercised by Euro-American-centric historians. As an exercise of cultural sovereignty, might a New Native American History movement, for example, present tribal histories as heartening stories of extraordinary cultural survival against great odds and in defiant contrast with the heralded tomes on the rise and fall of Western civilizations?

Going further, Arif Dirlik actually faults many postmodernist and postcolonial critics for effectively dodging the Indigenous historical challenge. He argues that Native American history ought to go beyond legacies of the past, become a political project of sorts, and serve as a platform for Indigenous peoples to shape their tribal cultural identities and choose among different, competing tribal histories going forward.

The reification of the precolonial past may be accommodated within a cultural pluralism much more easily than the insistence on the construction of alternative futures that draw not only on primordial traditions, but also on the struggles of the immediate past. The difference is the difference between a multiculturalism that enables assimilation without

¹⁵ Shawn Wilson, *Research Is Ceremony: Indigenous Research Methods* (Halifax and Winnipeg: Fernwood Publishing, 2008), 53-54.

¹⁶ Craig Womack, *Red on Red: Native American Literary Separatism* (Minneapolis: University of Minnesota Press, 1999), 9.

challenge to the social, political, and economic status quo, and a multihistoricalism that questions the totality of existing relations and the future of the history that legitimizes them.¹⁷

Currently, I see a confluence among three streams of scholarship that can and should be applied to the discipline of American history, in general, and to transforming Native American history in particular: (1) the postcolonial decolonization thrust; (2) the ongoing development of the New Western History movement; and (3) the emerging possibilities offered by an Indigenous research paradigm, methodologies, and methods, to be termed Indigenism. This appears to be an opportune time for Indigenous and non-Indigenous historians alike to re-search unconventionally for mutually beneficial knowledge and to see more of what has been made invisible by non-Indigenous design. For instance, new and/or different understandings may be reached collaboratively at this confluence regarding Native American history that could promote cross-cultural and internal healing, such as truth and reconciliation processes and ceremonies. Maybe therein lies an important missing link in forging better cross-cultural relationships for the future between Indigenous and non-Indigenous peoples. As to Dirlik's challenge, the complex moral, political and identity choices affecting the future trajectory of Native American history are better left to each of the tribal cultures free of non-Indigenous intervention.

¹⁷ Arif Dirlik, *Postmodernity's Histories: The Past as Legacy and Project* (Lanham: Rowman & Littlefield Publishers, 2000), 89.

CHAPTER 1

UNCONQUERED, UNDAUNTED, AND UNRELENTING IN PURSUIT OF A SEPARATE PEACE

The Kickapoo tribe is unvanquished. In a different place, time, voice, and reality the Kickapoo people live on – unconquered, undaunted, unrelenting.

Uprooted and forcibly relocated from their ancestral homelands in Michigan, then Wisconsin, and finally central Illinois and southwest Indiana during the 17th, 18th, and early 19th centuries, the Kickapoo carry on and go forth in resilient communities on small reservations in Kansas, Oklahoma, Texas, and in Nacimiento in the state of Coahuila in northeastern Mexico.

The Kickapoo people know who they are. That is why the largest community of Kickapoo literally moved outside the U.S. across the Rio Grande River, unlike any other tribe, in order to sustain their tribal traditions and preferred way of life. They carry forward in accordance with their own unique understanding of their place in our shared Universe. In their most populous community in Nacimiento, Coahuila, in northeastern Mexico, they live in accordance with their own cosmology. In comparison and contrast with the surrounding non-Indigenous culture, they are timeless. They continue to live in humility and with respect for all their relationships within the web of life, as they know it. In the final analysis and if left alone, the Kickapoo continue to seek a separate peace, apart from Euro-American lifeways.

While remaining very private, the Kickapoo people are very proud and protective of their ongoing cultural heritage, oral traditions, and ceremonies. For instance, the Oklahoma Kickapoo uniquely declined to be represented in the tribal flag court that was erected on the grounds of the State Capitol in Oklahoma City when it was constructed as a tribute to all the tribal nations who have reservations in that state. Collectively, the Kickapoo have their own tribal history residing

in their own traditional stories, song, dance, music, arts and crafts, one that is firmly rooted in their sacred sites and land. As such, the history of the Kickapoo people remains locked away, practically unknown outside of their tribe, as elders have chosen not to share their stories with non-Natives.

In place of a complete Kickapoo history, there persists in popular, mainstream U.S. culture a very incomplete, pinched, and whitewashed misrepresentation of the Kickapoo people only available to persistent scholars in a skimpy handful of books, unpublished manuscripts, and obscure academic journals. Meanwhile, the Kickapoo live in a veritable matrix, a 3-D consciousness and beyond, that Western, Euro-American ‘others’ refuse to acknowledge, let alone accept on Kickapoo terms.

Fundamentally, history/’his-story’ belongs to the storytellers. There is more than a little truth to the adage that “history is written by the victors.”¹⁸ This conundrum is doubly vexing when it comes to Kickapoo history (and any other tribal history for that matter). That is because it privileges the Euro-American version of history, especially in North America, at the same time that it exclusively legitimizes written, documented history as the only valid view and acceptable form of history. The results are both self-serving and self-defeating in the search for Kickapoo history. This stance is self-serving because it thoroughly marginalizes the Kickapoo people, rendering them practically invisible to the settlers who displaced them. Moreover, it allows the non-Indigenous descendants of those settlers to rationalize and justify displacement as the inevitable triumph of Western civilization and “the march of progress.” This stance is also self-defeating because it rewards cultural hubris and ignores that which might be learned from a powerful and continuing Indigenous example of a different consciousness, a different way of

¹⁸ Attributed to Winston Churchill, but of uncertain origins.

being, experiencing, and knowing in this earthly existence/world than the dominant, self-proclaimed homogenous mainstream, Euro-American way of life and its underpinning of dispirited, consumptive, materialistic Western values.

Consequently, must Kickapoo history in their own tribal voices remain forever inaccessible, unknowable, and unintelligible outside of Kickapoo communities? Worse yet, must non-Indigenous people go on substituting and accepting uncritically that which has been written by Westerners as the definitive history of the Kickapoo people, in all its incompleteness, deliberate misrepresentation, and dehumanization?

Surely, the Kickapoo people have a right to their own tribal history as well as the right to determine what they choose to share outside of their own culture and in what forms. Short of that, non-Kickapoo scholars and students can contribute by revisiting, reappraising, and revising Westernized Kickapoo history and stop reverting,¹⁹ relying, insisting upon one and only one truth, one hidebound, documented non-Indigenous history—“his-story”—of the Kickapoo people in all of its increasingly apparent frailties.

This book is intended to serve as a way station between the popularized, incomplete written history of the Kickapoo people, and the guarded, oral traditions as told and understood within their own communities throughout the U.S. and Mexico. It remains to be determined if and when the Kickapoo choose to share any of their own authentic history and in what forms.

In the meantime, let's embrace a different way of being and knowing and proceed down a different trail, reaching back thousands of years.

¹⁹ Vine Deloria, Jr., “Revision and Reversion,” in *The American Indian and the Problem of History*, ed. Calvin Martin (Oxford: Oxford University Press, 1987), 84-90.

PART I
LIVING IN FREEDOM AND SELF-RELIANCE

CHAPTER 2

THE KICKAPOO CREATION STORY AND RELIGION

In this world, Indigenous peoples have different ways of being, knowing, and valuing. That is, they live according to their own ontology, epistemology, and axiology in academic terminology. However, one common characteristic that the Kickapoo have with other tribal communities is that they generally rely upon oral traditions and don't keep written histories. Their history comes from their elders or from their collective and individual *manitous*.

Manitous are known to the Kickapoo as spirits or forces underlying life and the temporal world, which were created by the Great Spirit Kitzihiat and are understood as nature spirits of both good and evil influence. The following account of their spiritual beliefs draws heavily upon field research and interviews conducted among traditional Kickapoo elders living in their Mexican community during the 1970s.²⁰ It should not be taken as complete by any stretch of the imagination because there are many specific stories and beliefs that guide the Kickapoo people that have yet to be shared and translated for those outside the community.

Origin of the Fourth and Last World

Kitzihiat, the Great Spirit, created the Universe and everything in it, comprising the first, second and third worlds. Kitzihiat's son, Wisaka, the great hero and trickster, created this, the fourth and last world after all the others perished, creating North America as a flat and floating island that is home to the Kickapoo and all other Native Americans. The first world was destroyed by air, the second world by rot, and the third by water after eighty days of rain. Only the Kickapoo were spared from drowning. This fourth world will be the last and it will be destroyed by fire.

²⁰ Dolores L. and Felipe A. Latorre, *The Mexican Kickapoo Native Americans* (Austin: University of Texas Press, 1976), 260-271.

When Wisaka created this world, he had to struggle with underworld horned panthers, the evil manitous of the water. They tried to kill him. First, they sought to freeze him to death by completely covering his mother's house with a heavy snow. He fell asleep under a blanket when the cold numbed him, only to be awakened by a small bird perched in the smoke hole who tried unsuccessfully to warn him of his danger. Later, another bird came to him, but by this time Wisaka was so weak and hungry that he gnawed the leather off his bow and fell back asleep. Then, a third bird perched on the smoke hole and, observing that Wisaka looked dead, descended to gouge out his eyes. Suddenly, Wisaka woke up and scared away the bird of prey, who went to warn the evil horned panthers that Wisaka had survived their attempt to freeze him to death.

Next, the panthers plotted to drown Wisaka. They made the sea spread around him until everything was covered with water. But he quickly made a small boat and saved himself. Soon thereafter, and in making this continent, the snapping turtle appeared and offered to help. Wisaka scraped the dirt from under the turtle's flippers and body each time it dove to the bottom and brought up earth. Then, the dove appeared and offered to bring twigs to make a sort of nest by combining the twigs with the dirt. Wisaka then placed the quasi-nest over the water and spread it out until he had trapped the huge horned panthers under this world. When the world comes to an end, the horned panthers will come forth and devour everyone, including the Native Americans.

In another version of their creation story, the Kickapoo believe that after Wisaka finished making this world, he asked a spider to spin a strong web that, in turn, he used to tie this world to the north. This is why the Kickapoo do not kill spiders.

Once Wisaka had secured this world, he proceeded to make and name everything in it. He delighted in giving the mountains strange forms because he is playful and mischievous. He brought forth animals, such as the deer, buffalo, bear and turkey, and he created corn, squash,

beans, apples, grapes, apricots, pears, watermelons, and cantaloupes. He put the rain here to water the crops every fourteen days, so the Native Americans would not have to work. To the whites, Wisaka gave cattle, pigs, and chickens, as well as hats, money, paper, writing, and work. When the white men came to the fourth world, they took the seeds of the Kickapoo products back to their world.

It is unknown where Wisaka lived at the time he created this world, and while a generous creator, Wisaka is not without his own shortcomings. For example, he likes to drink. Earthquakes happen when he has had too much. Wisaka is a son of the Great Spirit Kitzihiat and he is one of at least four sons whose names are known. His brothers are Pepazce, Mesicatuinata, and Machemanetuha.

Pepazce, the second son of Kitzihiat, was the first Native American to be killed in the world. Long ago, he and Wisaka were walking in the woods and turned themselves into acorns for fun. The wind swept them along until Pepazce was snared in a trap that the underworld panthers had spread out. They clubbed him to death. From that day, the Great Spirit placed the spirit of Pepazce in the west, where he rules the hereafter and where most of the Kickapoo spirits eventually dwell.

The Kickapoo don't believe in purgatory, only in heaven. If one follows the Great Spirit's laws, then one's spirit can get to heaven via an adoption ceremony within the tribal community. But if one commits suicide or dies while intoxicated, he or she may be unable to reach the hereafter. When a deceased person's spirit goes to the hereafter, it takes the Milky Way and a river until it reaches a bridge with a pole across it. If a spirit arrives without an adoption ceremony, the pole shakes until the intruder falls off. According to a different version, Pepazce sits at the bridge along with a vicious dog ready to devour any intruder.

Mesicatuinata, the third son of Kitzihiat, was in line for chieftainship, but was killed by his envious younger brother, Machemanetuha. The Great Spirit put Mesicatuinata's spirit in charge of the spirits of warriors – those who die of gunshot wounds, while not intoxicated, as well as women who die in childbirth. Some believe he lives in the south, while others believe he is with Kitzihiat. The spirits in his care spend their time enjoying themselves, but also look after their kin to protect them from harm.

Machemanetuha is symbolic of evil and is associated with the devil because he killed another tribal member. The Kickapoo blame this manitou for bad happenings, witchcraft, rattlesnakes, centipedes, disease, or any disaster they cannot explain otherwise.

The Kickapoo are uncertain where Kitzihiat lives. Some believe in the sky above, others believe he is everywhere, and still others simply don't know. But they do know that he dwells in a wigwam like the ones in which they live. Wisaka told them so after he created the fourth world and shared knowledge with the Kickapoo. Wisaka imparted laws by which his father, Kitzihiat, expects the tribe to abide. They must not: commit suicide; kill another Kickapoo; kill another Native American from another nation; kill a Mexican; fail to fulfill their ceremonial obligations; indulge in excessive drinking; steal; commit adultery; lie; accumulate wealth; commit incest; participate in witchcraft; or indulge in malicious gossip. Wisaka taught the Kickapoo how to build their houses, which wood to use for making bows, arrows, and utensils, how to dance and perform ceremonies, and how to use medicine bundles he had secured for them.

The Great Spirit takes account of Kickapoo conduct, as transmitted by the manitous, who serve as his messengers and vigilantes. He can punish Kickapoo who fail to fulfill their ceremonial duties, respect taboos, and follow the code of ethical conduct. He is the same God worshipped by Christians, who simply gave one people certain things and the Kickapoo certain

other things. The Kickapoo believe the Great Spirit lent his life to man and calls man when he judges that his time is ripe.

The Manitous: Communicants of Spirit, Life, Power

Kitzihiat is too busy with many duties to pay attention to the Kickapoo in particular, which is why he created his sons and many other manitous to watch out for the tribe's welfare. Since everything in the world has a spirit, life, and power, the Kickapoo can communicate with the Great Spirit by using such messengers as tobacco, fire, the sky, and the four winds – all manitous – and by following traditional rituals. Hence, tribal dances and ceremonial food such as puppy are dedicated to Kitzihiat and his relatives to give them pleasure and to show gratitude for the bounty provided.

Chief among the manitous are those which directly aid the Kickapoo. These manitous are called grandfathers or grandmothers, and include the thunderers, as well as fire. Known as “those who walk above,” the thunderers are four old people who help to keep the evil horned panthers in their place. The Kickapoo aren't frightened by the thunder and lightning when it storms, for they know the thunderers were placed here to protect them.

The fire manitou is especially significant, for, without it, the Kickapoo could not communicate with other manitous and get their messages to and from the Great Spirit. In the fire, the Kickapoo burn the tobacco manitou, offered as the first step in asking for aid and favors. Individually, the Kickapoo offer tobacco to the fire and ask its spirit to reveal knowledge when nobody else can give it. So strong is their respect for fire, that a Kickapoo man, while he is praying during a ceremony, dares not look at the fire as it is being stirred, for fear that a spark may kill him.

Four corners or directions, four winds, and the sky that watches through the smoke hole are all manitous and grandfathers. They are vigilantes and messengers who notify the other manitous to ready themselves when the Kickapoo want to communicate. When addressing the four corners or the four winds with the flageolet (a small flute resembling a treble recorder), a strict order must be observed: first, the manitou who lives in the east is called, then the one who lives in the west, the south, and the north; otherwise the messenger will not arrive. Helping these manitous are the trees, rocks, moon, sun, day, and night.

The North Star is also a manitou called Bear by the Kickapoo. They locate it by the Big Dipper and use it to guide them when hunting. They believe Venus to be two stars – one for the evening star and one for the morning star. The two stars are said to be two Kickapoo who died long ago and Kitzihiat placed them in the heaven as the brightest stars.

The Pleiades is the only constellation that the Kickapoo consider a manitou. It is closely associated with the New Year ceremonies. When the Pleiades reach the zenith and the sun sets at the same time, the Kickapoo New Year is imminent. They only need the thunderers for the four directions to announce when they may begin their clan festivals.

The earth is a manitou called grandmother and is supposed to have reared Wisaka. She sustains herself by eating human beings buried in her bosom. The vegetation of the earth is her hair. She is a source of wisdom, ready to impart knowledge to young people who have fasted and prayed. Before the time to plant Native American corn, squash, and beans, the chief has a ceremony in which Grandmother Earth is offered tobacco and asked to be bountiful with the crops.

The sun is a manitou called grandfather. He is considered the strongest of all, since he supports the world with the help of the strong web made by the spider. The sun makes the rainbow. Children are taught never to look at the sun for fear of being blinded by his strength.

The moon is a manitou called grandmother. The face in the moon is the face of the Kickapoo's grandmother, who is stirring a kettle of food for her family. If she should ever stop stirring the kettle, the world will come to an end. When an eclipse occurs, the Kickapoo believe the moon is dying and fire their guns to revive her. It was the moon who sent women their menses, since she appears every 28 days, as does the menstrual period. Children are also forbidden to look at the moon. When corn is ready to harvest, it is done when the moon is full, so that it will mature and the weevils won't eat it.

Comets and meteors are manitous and omens of disaster. When a comet's tail is up, it is a sign of a big war; with its tail down, it foretells a small war. Meteors spell disaster and they may also signal wars for the Kickapoo.

Also, day and night are manitous called grandfather. In keeping with this belief, every Kickapoo is assigned to one of two moieties—which are complementary tribal subdivisions known as Kisko or Oskasa—at the same time that he or she is given a clan name. One's moiety is a team identity, in effect, and moieties compete against one another in ceremonial games and food competitions.

There are other manitous who rule during the year, decide the weather between them, and alternate the seasons. The ocean and the water and their inhabitants—water snakes and water hens—are also manitous. They own the water, and for this reason one must ask their permission before entering their domain.

The Kickapoo-style house is a manitou; only in such a house may ceremonies be held. The horse, buffalo, deer, and dog eaten at ceremonies, and all the foods Wisaka placed here for the Kickapoo, are manitous. All the ceremonial dances and games are also manitous except the moccasin game, which they say came from the Sauk and Fox tribes.

Evil manitous also exist such as witches, centipedes, rattlesnakes, the underworld horned panthers, and sickness, but the majority of manitous are kindly disposed toward the Kickapoos. All can be appealed to for their grace by means of ritual, in which the offering of tobacco is most important.

Orientation and Ways of Living

The Kickapoo live with four worlds above them, four below, four to their right, and four to the left. The dome-shaped sky is made of solid blue rock, which appears transparent from below, but not from above. The sun and moon are inside the skydome. The stars are outside of it and are people who can be seen by the Native Americans in this world, but not vice versa. There is a big chimney on top of the skydome, through which Wisaka climbed and left after making this world and bringing knowledge to the Kickapoo people from the Great Spirit.

According to anthropologists Felipe A. and Dolores L. Latorre, the Kickapoo people use the term “religion” in explaining their clans, and liken them to the many religious denominations among Protestants.²¹ Next to family affiliation, one’s clan is the strongest social tie governing individual Kickapoo throughout his or her life.

As of 1970, there were fourteen clans within the Mexican Kickapoo tribe: Man, Berry, Thunder, Buffalo #1, Tree, Black Bear, Eagle, Brown Bear, Buffalo #2, Fire, Water, Raccoon,

²¹ Ibid., 151-155.

Coyote, and Fox.²² Only the Man, Berry, Thunder, and Buffalo #1 clans have leaders qualified to preside at the tribal ceremonies connected with the sacred clan medicine bundles.

At a young age, every Kickapoo boy or girl is given a name during a naming ceremony. That name is an eponym of the clan's totem. Thereafter, he or she will be known by this name by all members of the tribe. He or she attends the New Year clan festivals, during which he or she learns about ethics, ceremonial conduct, herbal knowledge, and information about the colors of clothing and ornaments he or she may wear. Each clan's practices govern ceremonies to be observed, and may include hunting, wigwag construction, interment, the feast for the dead, and adoption.

Membership in certain clans gives specific ceremonial privileges or duties to its members. For instance, each New Year, all of the fires in a traditional Kickapoo village are extinguished. The leader of the Thunder clan makes a new one with the bow drill, a tool used to make friction fire. That fire is distributed to all homes. When a fire dies out, it suffers and says to the woman tending it, "My daughter, raise me, as I am dying." When leaving the house, a fire is to be put out to prevent its suffering. Neither do the Kickapoo spit in the fire, nor do they use it to burn waste. A woman must not step over it, believing that if she does, she will hemorrhage to death.

Mechimisinucoa (meaning "May Kitzihiat always grant us fire") is a woman in the village who is charged with keeping a perpetual fire. She seldom leaves home, and when she does, she must assign others to keep the fire burning. Whenever a person conducts an individual ceremony, he or she goes to a bundle house—where each clan's sacred medicine bundle is

²² There has not been a more recent in-depth book published since 1976 from either tribal member(s) or non-Native author(s) and that is based upon immersion within the Kickapoo communities. Knowledgeable tribal sources have not shared and, respectfully, non-Native scholars have resisted the practice of cultural appropriation.

kept—or to the house of Mechimisinucoa for coals to start the fire, before which his or her clan leader presides and into which tobacco is placed as an offering. If an illness occurs in a home, coals from the clan bundle house are taken to make a fire, which is constantly fed while the patient is undergoing treatment.

The central element of the Kickapoo religion is the possession and veneration of the so-called medicine bundles, or sacred packs, called *misami* by the Kickapoo. Each bundle is considered a manitou and is the most sacred possession of a clan or an individual. Three different types of bundles are used: those belonging to the clans; those that belong to an individual; and those that belong to the herbal societies.

Clan bundles belong to the group, since the leaders are not always the son or other blood relative of the man who preceded him in the past. Leadership is preferably passed to a relative, but may also be passed to a man who, because of a firm memory, interest, and dedication, is able to learn the intricacies of the ceremonies associated with the bundle. The second type of bundle belongs to an individual, such as Chief Papicoano among the Mexican Kickapoo in the 1970s, who owned two bundles and used them in various ceremonies (*misas de capitan*—chief's ceremonies) and at house-building ceremonies. The third type belongs to members of herbal societies who use them in their cures.

A clan bundle is not always kept in the leader's home. For example, the leader of the Man clan's bundle kept it in his temporary custody (as of 1970) only after the death of his mother who had retained it previously. All the other bundles are kept by women customarily, in whose houses the bundles have been kept for many years. It is an honor to keep a bundle and women sometimes make great financial sacrifices to build the bundle houses, enlarge them for New Year's ceremonies, and outfit them with new mats in tribute.

All the clans in Mexico have bundles except the Fox, Coyote, Fire, and Eagle. The Kickapoo keep secret all information related to the bundles, as they are things of “the old people.” They are believed to have been originally bestowed by Wisaka.

Many taboos are associated with bundles, especially for menstruating women, whose presence is thought to deplete the bundles of their power.

Bundles are approximately two feet in length and six inches thick, covered with a clean white cloth to protect them from dust and insects. They are kept in the highest rafters on the west end of a house. Contents are also enclosed in finely dressed skin of a two-point buck—that is, one with a single point on each antler—killed by a clan member and prepared by a girl before her menarche or a woman past her climacteric, working in a hidden spot. It is secured with strips of buckskin.

It is hard to discover the contents of a bundle because men will not tell, and women are prohibited from viewing. Non-Indigenous speculation centers around the inclusion of taboo animal parts, a small sack of tobacco, a pipe wrapped in a fine coattail mat and kept in a casing of fawn skin, two gourd rattles, a flageolet, a bow and drill, hematite (iron ore mineral), and commercial dyes to paint the faces and moccasins of the deceased. In different bundles are thought to be found distinct groupings of items: human skulls, scalps, desiccated fish, human effigies; desiccated parts of mammals, birds, and reptiles; tails and hairs of buffaloes, coyotes, and cougars; claws of bears and cougars; parts of the prairie dog, rattlers, horned toads, humming birds, owls; or feathers of the golden eagle and sparrow hawk—all of these items presumed to be endowed with their own mystical, spiritual powers. They may also contain dried roots and plants owned by various clans and are often strictly taboo to others. These are used for medicinal, ceremonial, or mystical purposes. This may include wild cherry branches, wild iris

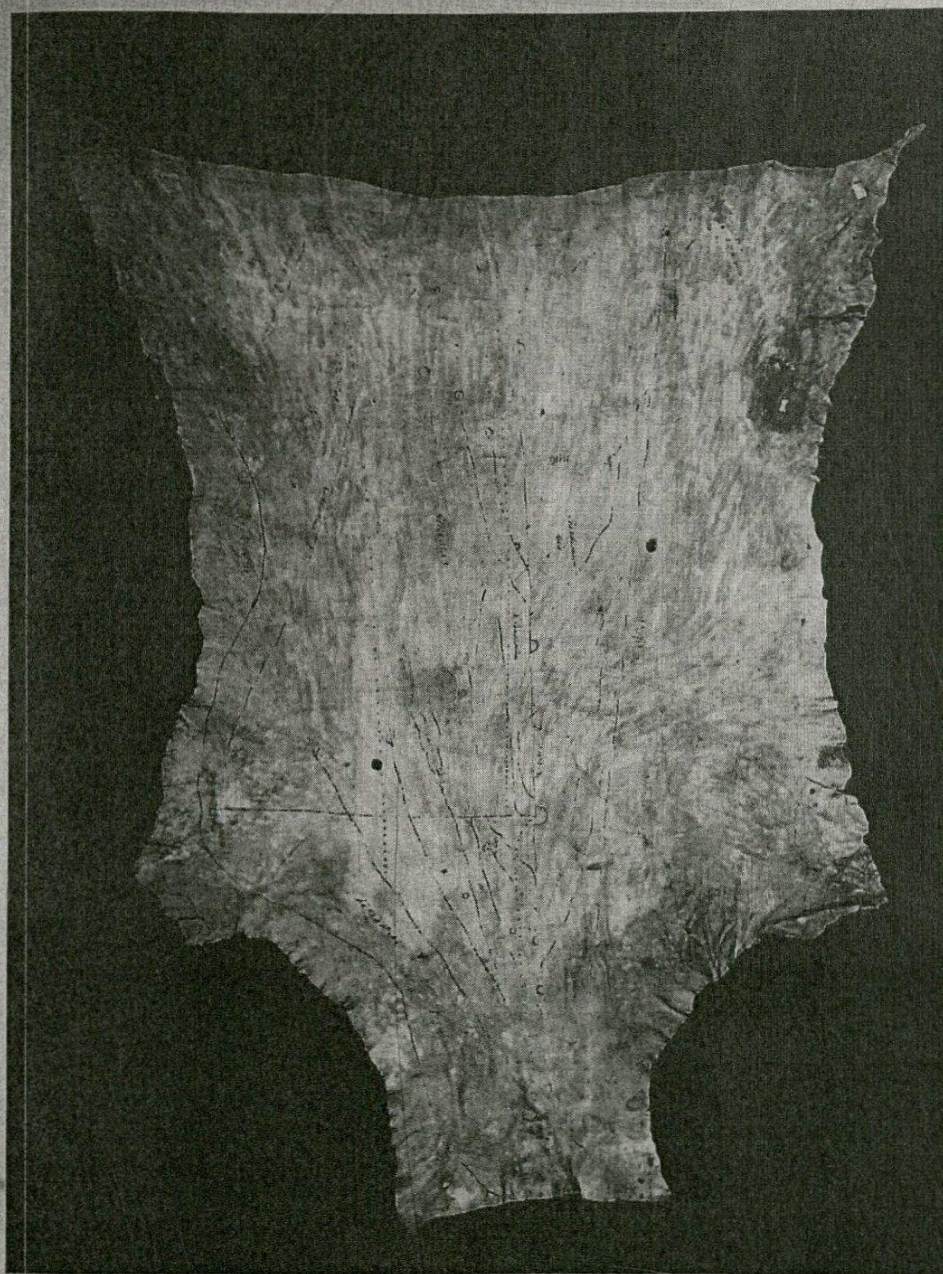
rhizomes, and cudweed, which are used in purification of bundles and houses, and the rhizome of Solomon's seal, a plant of many mystical properties.

CHAPTER 3

RELATIONALITY: LIVING SIMPLY AND HARMONIOUSLY

The degree to which historic Native land use practices, including those of the Kickapoo, affected the natural environment is subject to on-going scholarly debate. Over time, all plant and animal communities were disturbed by natural and cultural influences, hence they were in a constant state of flux at the micro-environmental level. Nonetheless, before European contact, stability over change was the dominant characteristic at the broader macro-environmental level. This was true even on the prairie margins, where the Kickapoo and other inhabiting tribes engaged in regular and systematic burning, which became a significant factor in ecological succession.

PLATE VII



Skin Map of the Wabash River area. BM, Dept. of Ethnography, AM loan 1.3, Stonyhurst 1825.16. *By courtesy of the Trustees of the British Museum*

Warhus, Mark. Another America: Native American Maps and the History of Our Land. New York: St. Martin's Press, 1997, p.15.

Skin Map of the Wabash River area. Source: BM, Dept. of Ethnography, AM loan 1.3, Stonyhurst 1825.16. By courtesy of the Trustees of the British Museum from Mark Warhus, Another America: Native American Maps and the History of Our Land, p. 15.

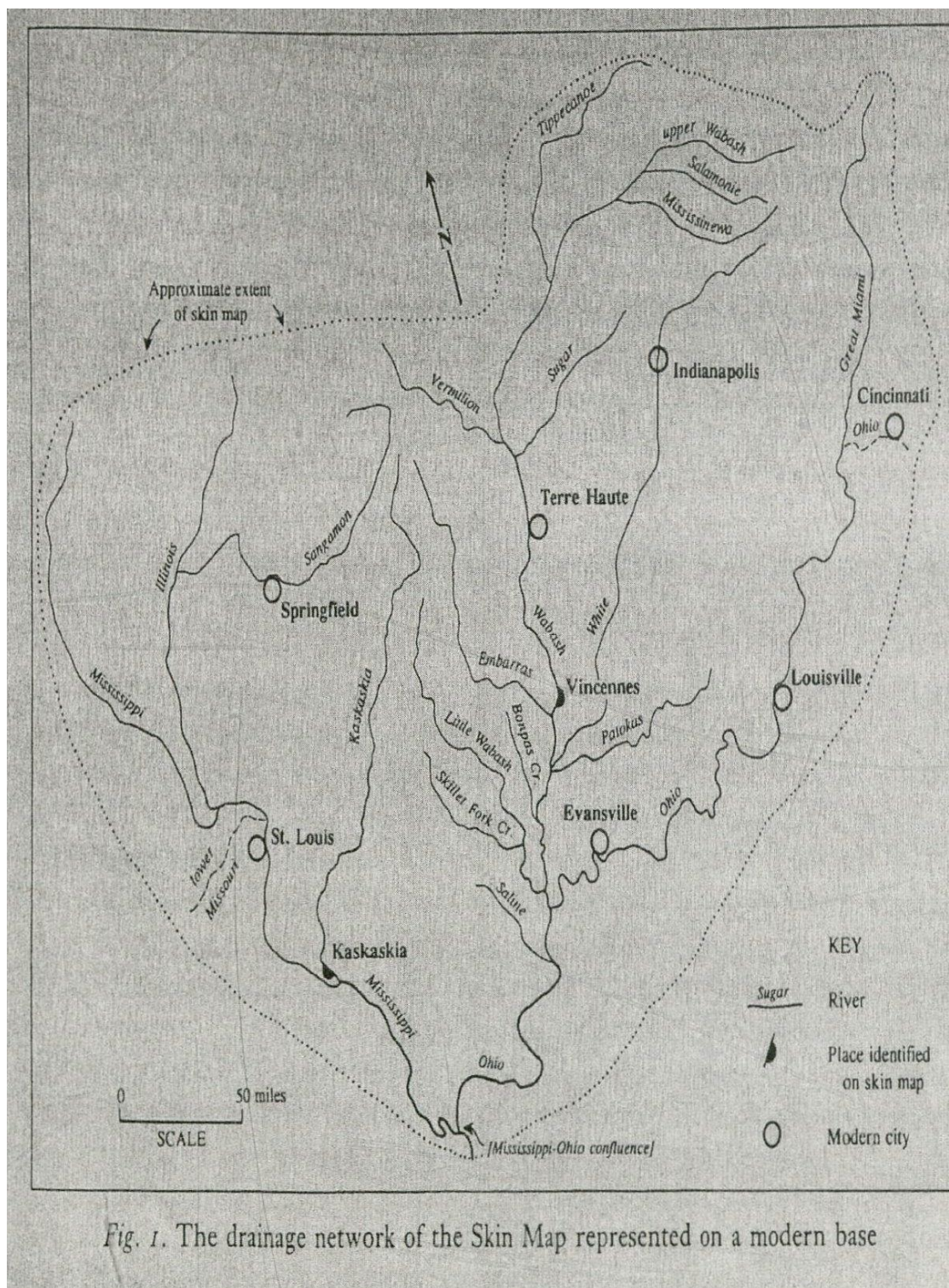
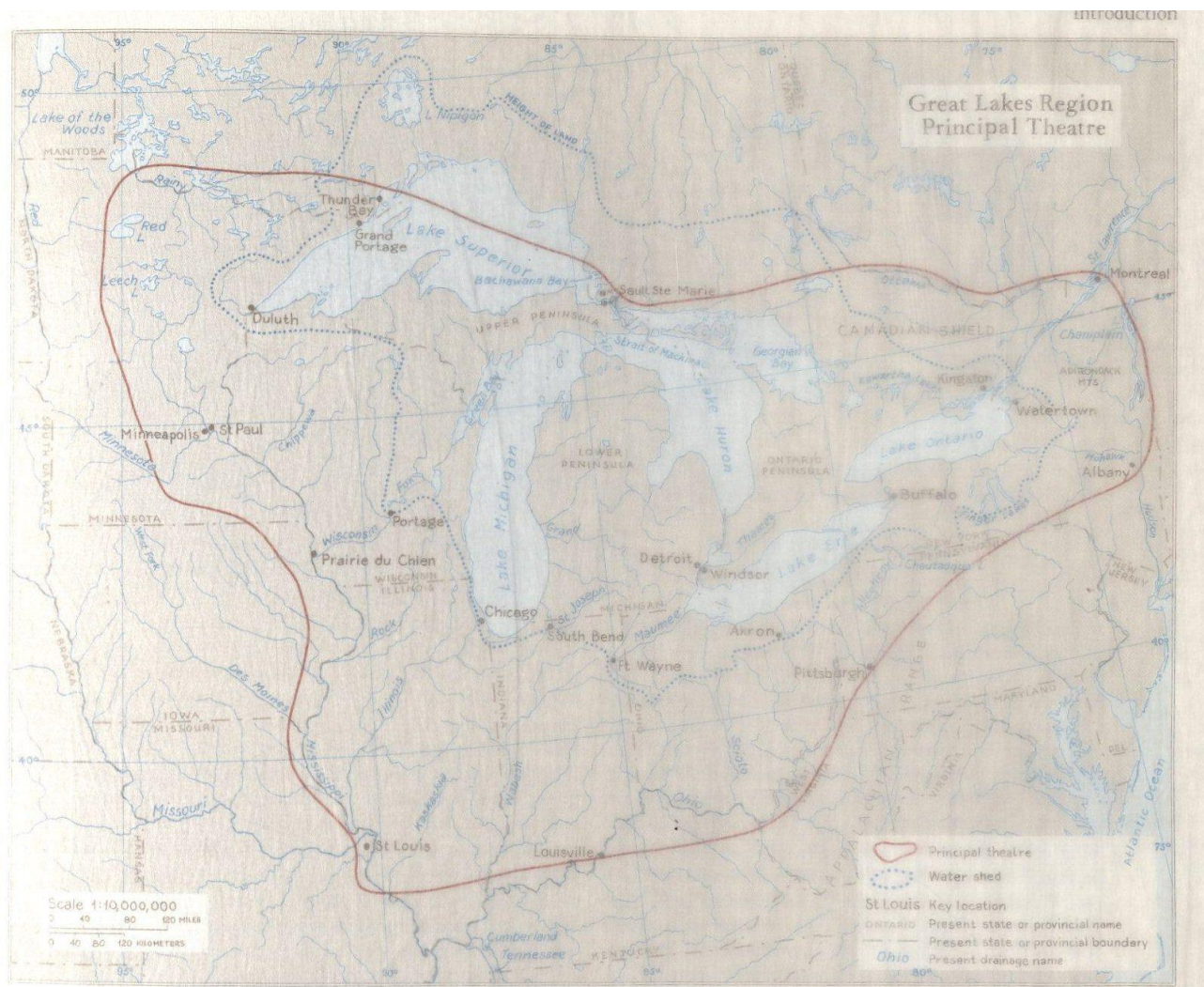


Fig. 1. The drainage network of the Skin Map represented on a modern base

The drainage network of the Skin Map represented on a modern base. Source: Mark Warhus, Another America: Native American Maps and the History of Our Land.



Most of the Indian languages of the northeastern United States and adjacent Canadian territory were Algonquian and distinct from the Iroquoian and Siouan. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 3.

Although comparatively small tracts of land were continually affected by burning and rudimentary land clearing by Indigenous peoples, it was the arrival of the Europeans in the Great Lakes region that dramatically transformed the natural environment. That transformation began early in the 17th century with selective trapping of fur-bearing animals, such as beaver, for commercial trade. A far greater and lasting impact occurred in the early decades of the 19th century and thereafter with the advent of the steadily increasing torrent of Euro-American land

speculators, settlers, and mercantile entrepreneurs. Their different ways of life were rooted in the clearing of land for lumber and farming and the drainage of swamps and wetlands for cultivation. They also introduced exotic plant and animal species from outside the region, which had the effect of permanently changing the Great Lakes environment.

Working with and Adapting to the Environment

In contrast to the Euro-American practice of dramatically altering the landscape, many of the Native tribes (including the Kickapoo) historically worked with and adapted to their environment. Comparatively, past and present, Native tribes view their surroundings as a place of which they are a part, not simply space to be occupied and fenced.

At the time of European contact, there were five distinct plant communities across the Great Lakes region: (1) coniferous forests; (2) deciduous–coniferous forests; (3) deciduous forests; (4) grasslands–deciduous forests; and (5) grasslands.²³

²³ Helen Hornbeck Tanner, *Atlas of Great Lakes Indian History* (Norman, Oklahoma: University of Oklahoma Press, 1987), 14-15, Map 3.



Plant communities in the Great Lakes Region circa 1600. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 15.



Plant communities in the Great Lakes Region circa 1600. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 14.

Deciduous forests covered most of the region from the south-central and eastern areas where temperatures moderate and the humidity is high. They blended into the grasslands to the west and north, to include Illinois and the southern third of what became Wisconsin. Intermediate areas supported either prairie grasses intermixed with deciduous forests or deciduous–coniferous forests.

Particular tribes became associated with certain plant practices according to the locales they occupied within the Great Lake region. For instance, tribes living in or near deciduous forests carved dugout canoes, covered their dwellings with elm bark, and supplemented their diets by eating a lot of nuts. Other tribes inhabiting mixed coniferous–deciduous woods or purely coniferous forests used birch bark instead to cover their dwellings and for making canoes and they ate more berries than nuts.

More specifically, Ojibwa villages and settlements were most common in the coniferous–deciduous forests of the western half of the region and extending to the north shore of Lake Superior and beyond into Canada. They also dominated the maple–birch–hemlock and maple–birch–beech habits southward from the shores of Lake Superior. The Potawatomi were centered in the deciduous forests, while the Miami tended to stay in the more eastern reaches of the grassland–forest environment.

Extrapolating and cross-referencing from the maps in this chapter, one can see the Kickapoo adapting themselves to different vegetation and animals to be found in the deciduous forest and grassland-forest plant communities respectively, as they migrated within the Great Lakes region between the 17th and early 19th centuries.²⁴ In particular, when they lived in southern Michigan, they were in deciduous forests populated with maple, oak, hickory, elm, ash,

²⁴ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman: University of Oklahoma, 1963), 37.

and beech trees.²⁵ When they moved to central-south Wisconsin, they found themselves living in a somewhat mixed grassland–forest environment distinguished by bluestem prairie grass with oak and hickory trees nearby or in deciduous forests of maple and basswood trees the closer they moved toward Lake Michigan. Next, they trekked southeasterly and established villages in east-central Illinois along the North and South Vermilion rivers in an overwhelmingly grassland–forest environment with oak and hickory trees and a smattering of maple and beech trees included in the vicinity of where the South Vermilion River empties into the Wabash River.²⁶

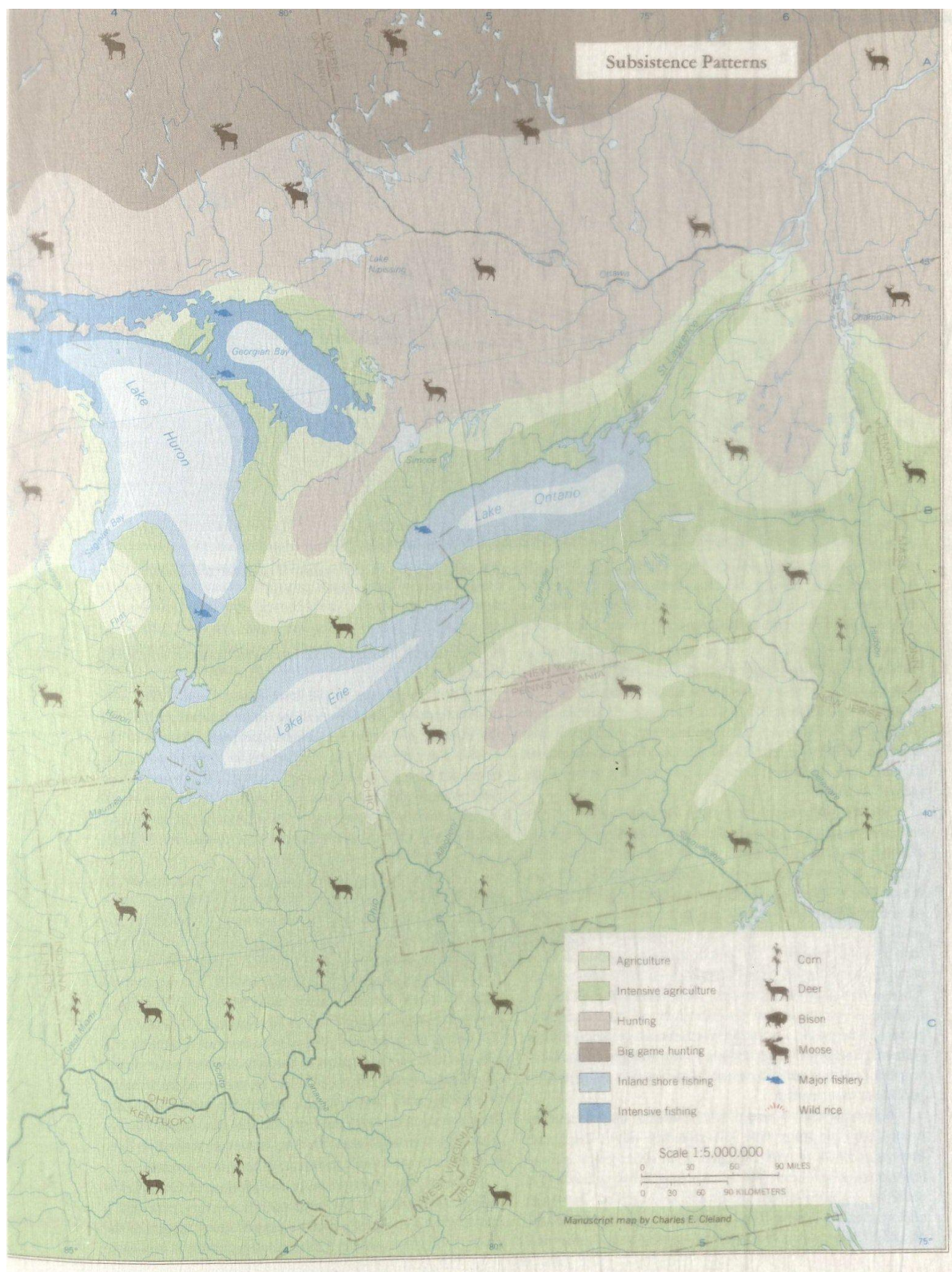
Subsistence Patterns

Before European contact, the Kickapoo were among many tribes in the Great Lakes region that had benefited from many centuries of human trial and error to find food resources, housing and assorted ways of living in different local environments. The divergent survival regimes among the various tribes had in common strong relationships between the distribution of natural and cultural communities. The assorted tribes had to reach an equilibrium between themselves and within by balancing population, group size, and seasonal movements. Each tribe also had to sort out an appropriate division of labor and come to terms with the resources available in their surrounding natural environment. Euro-American scholars have chosen to group the tribes in the Great Lakes region into four basic subsistence patterns: (1) agriculture; (2) hunting; (3) wild rice; and (4) fishing.²⁷

²⁵ “Kiikaapoi (Kickapoo) History,” Kansas Kickapoo Tribe, accessed spring 2012, <https://www.ktik-nsn.gov/history/>.

²⁶ Gibson, *The Kickapoos*, 37.

²⁷ Tanner, *Atlas of Great Lakes Indian History*, 20-21, Map 4.



Mainstays of tribal life on the Algonquin Range. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 21.



Meat supplies and agricultural growing cycle to support tribal lifeways. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 20.

The more agriculturally-oriented tribes like the Kickapoo inhabited the oak–hickory forest sub-region and, to a lesser extent, the beech–maple forest sub-region of lower Ontario and the southern parts of Michigan and Wisconsin as well as southeastern Minnesota. These Native Americans relied principally upon the cultivation of domesticated plants such as corn, beans, and squash, for their livelihood. These plants originated in the tropical and sub-tropical climates in Central America and Mexico, but they gradually adapted to cooler northern climates and had been imported into the northeastern U.S. by 1000 A.D.

There is strong archaeological evidence that these plants had become well suited to cultivation in those parts of the Great Lakes region with 120-140 frost-free growing days each growing year. It would be a mistake, however, to conclude that substantially agricultural tribes like the Iroquois, Potawatomi, Kickapoo, Miami, Illinois, and some Siouan groups were entirely dependent upon plant cultivation because they also hunted deer, bison, elk, bears, and turkeys, fished, and collected wild plants for protein. What truly set them apart, as only part-time hunters, from tribes to the north and west, was that they lived in a comparatively more hospitable and fertile growing zone that typically yielded surplus corn each growing cycle, for example, and they developed the labor-intensive capacity and knowledge to store it in ground caches.

Hunting was the mainstay of subsistence for tribes living in the boreal and mixed deciduous–conifer forest in the northern and northeastern sub-regions. In those parts, the northern Ojibwa, Cree, and Assiniboiné tribes came to rely upon moose, woodland caribou, and bears for food as well as beaver, rabbits, partridge, geese, and fish.

The Menominee, southwestern Ojibwa plus some Winnebago and Dakota relied upon the harvesting of wild rice in the marshes and wetlands west of Lake Michigan and south and west of Lake Superior. They lived in or near the mixed forests of maple, beech and conifers that are

surrounded by many shallow, limey lakes. Supplements to their diets included corn and the meat of moose, elk, and caribou.

Tribes who lived in the sub-region near the tops of Lakes Michigan and Huron and the eastern end of Lake Superior at the Inland Shore Fishery looked to the water and not the land to sustain themselves. In particular, the southeastern Ojibwa, Ottawa and some Huron groups were accomplished fishermen of whitefish and lake trout mainly. Maple sugar production in addition to hunting, plant collection, and spot gardening served to round out their food supplies.

What all four of these subsistence patterns have in common are specialized technologies, knowledge, and the adaptation of social institutions to take efficient advantage of the readily accessible flora and fauna in the natural surroundings to which they became accustomed. These cross-cutting cultural dynamics explain why corn was still grown in less than optimal conditions and why limited preservation capacity limited the fish harvest. Each tribe had to make do with circumstantial combinations of local environmental and cultural conditions.

Agricultural cultivation became the most widespread subsistence pattern among tribes in the lower Great Lakes region primarily because it yielded storable surpluses of corn and beans that could be periodically drawn upon in times of scarcity. If tribes inhabited areas with up to 140 frost-free days, they came to rely almost exclusively on these labor-intensive crops. If they wanted or needed more food, then more tribal members simply became engaged in their production and storage.



Guarding the corn crop. By Seth Eastman. From Schoolcraft, *History of the Indian Tribes of the United States*, pt. 3, p. 63. The Newberry Library.

Guarding the corn crop. By Seth Eastman. Source: History of the Indian Tribes of the United States, p. 63, The Newberry Library.

In contrast to agriculture, hunting was the least reliable means of subsistence because it didn't lend itself to human control. Hence, tribal populations were smaller in the sub-regions to the north. While animal meat could be frozen, those animals became scarcer toward the late winter and early spring when other food sources were in short supply, if available at all.

It is also noteworthy to recognize that while the Western academic favoritism for written descriptions of tribal life did greatly increase understanding of some cultural attributes of Indigenous peoples in North America from the early 1600s to the 1830s, there was also a serious corresponding and lasting distortion. Euro-American historical literature grossly exaggerates the importance of the fur trade, clouding the fact that most Native Americans continued to rely upon their traditional ways of procuring food and housing throughout that period. In fact, these Native

subsistence patterns were reinforced and further strengthened after European contact throughout the Great Lakes region. The Kickapoo and other tribes continued to depend upon their local environments, even after the introduction of guns, traps, and metal fishing gear. Epidemics and major population migrations had the same intensifying effect.

Candidly, these Native subsistence patterns were not dramatically undermined and altered permanently until the 20th century. That is when the underpinning environmental resource bases were substantially destroyed by the dominant, non-Native culture, through logging, the drainage of wetlands and re-engineering of waterways, and excessive hunting and fishing. Consequently, the equilibrium that had existed for thousands of years between and within tribes and their natural surroundings in the Great Lakes was fundamentally upset in many more ways than the prior challenges presented by the cycles of nature or the profound social ramifications set in motion by the post-contact fur trade.

CHAPTER 4

PLACING THE KICKAPOO IN THEIR ANCESTRAL HOMELANDS

Place is paramount to Native American ontology (way of being) and epistemology (way of knowing), so great importance and veneration is attached to every tribe's identification of their cultural homelands and sacred sites. Most often and reliably, that is where a tribe's creation stories happened, where their oral traditions, stories, and histories are rooted, and where they connect most personally with their spiritual lives

The disruption of Native American lifeways and the dislocation of tribes has been so profound across the Great Lakes region, and throughout North America, that it is very challenging to locate and map precisely where the Kickapoo or any other tribe lived. This is true for the so-called "historic era" since contact with Europeans in the 15th century. Serious complicating factors include: (1) territorial conquest by intertribal warfare; (2) Indigenous migration and refugee movements; (3) epidemics; (4) French-English-Spanish trade rivalry and wars; (5) international treaties and hostilities between Native Americans and Euro-Americans; (6) encroachment by settlers; (7) hundreds of land treaties between Native American tribes and the U.S. and state governments; and (8) seriously flawed implementation of agreed-upon terms for tribal removal, reservations, allotments, and material provisions.²⁸

²⁸ Helen Hornbeck Tanner, *Atlas of Great Lakes Indian History* (Norman, Oklahoma: University of Oklahoma Press, 1987), 2.



A view of the Great Lakes Region in relation to the rest of North America. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 2.

What do we know about where the Kickapoo lived prior to European contact and how do we know it? The most truthful and concise answer is not enough. Relying exclusively upon non-Native written records and eyewitness accounts is insufficient and, in fact, may be holding us back from more complete answers. Similarly, the longstanding fixation with reading and interpreting archaeological evidence has not and cannot, by itself, enable us to fully grasp

internal dynamics and cross-cultural relationships among the many tribes who inhabited the Great Lakes region and their far-flung displacement.

Nevertheless, unless and until Kickapoo tribal elders and historians choose to share more of their natural history with non-Native peoples, it is still worthwhile and not disrespectful to continue to draw upon historical documents, personal writings, and material artifacts, as primary sources of information to help fill in the admittedly incomplete mosaic.

Scholars disagree upon how far eastward from the Midwest Kickapoo homelands may extend. They may have been among several Algonquian tribes pushed westward from New York because of mounting pressures attributable to the warfare being waged against them by the powerful Iroquois Confederacy and the steady influx of European settlers.²⁹ (See corresponding maps.) It may even be possible to trace one migration route of the Kickapoo north of the Great Lakes into Wisconsin through a comparison of archaeological sites in western New York and Ontario, Canada, which resemble Kickapoo sites found in the Great Lakes region.³⁰ (See corresponding maps.)

²⁹ Charles R. Smith, "The Grand Village of the Kickapoo: An Historic Site," unpublished M.S. thesis (Normal, Illinois: Illinois State University, 1978), 9-10.

³⁰ Ibid., 14.

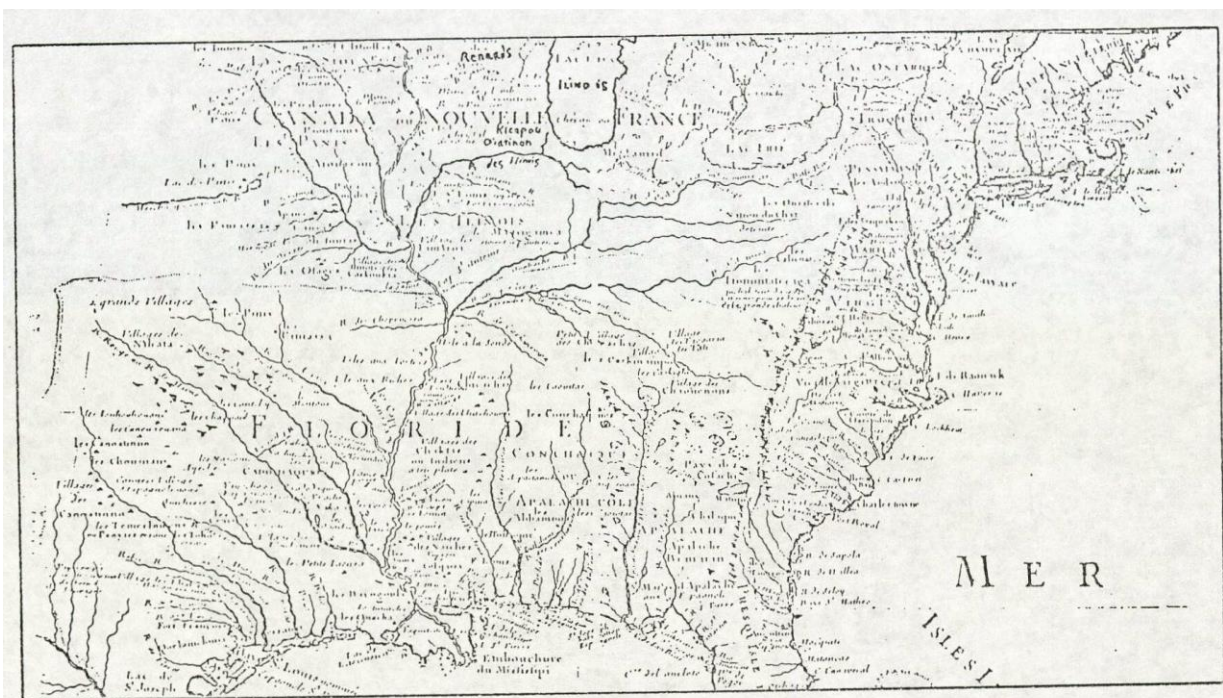


FIGURE 9

DELISLE MAP OF 1703 (Tucker, 1942:Plate XIII)

Very early 18th century location of the Kickapoo when French contact was most common.
 Source: Charles R. Smith, "The Grand Village of the Kickapoo: An Historic Site," p. 23.



FIGURE 10

DELISLE MAP OF 1718 (Tucker, 1942:Plate XV)

Locating the Kickapoo just west of Lake Michigan in early 18th century. Source: Charles R. Smith, "The Grand Village of the Kickapoo: An Historic Site," p. 24.

They followed the abundant rivers and lakes, attracted to the natural bounty of the land, until they reached the sparsely populated area west of the Lac des Illinois/Lake Michigan. A.M. Gibson, author of the most-widely consulted history of the Kickapoo, places them originally in Wisconsin. (See map in Chapter 3)³¹

However, as part of their migration during the first half of the 17th century, John Boatman has them living for some time in northwestern Ohio and southeastern Michigan. He claims that the Huron tribe of Ohio referred to the Kickapoo as the "On-ta-rah-ro-non," which translates as

³¹ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman: University of Oklahoma, 1963), 37.

“Lake People.” Furthermore, cultural and linguistic evidence links them to the Fox, Sauk, and Mascouten tribes as well as to the Shawnee tribe, who were centered in Ohio. In Wisconsin, he centers them along the Fox River near present-day Berlin in the far northeastern corner of Green Lake County in the mid-1600s. In addition, Kickapoo, who were involved early on in the fur trade, may have had encampments along the Fox and Upper Illinois rivers in present-day Illinois.³²

James Silverberg, a well-regarded Wisconsin archaeologist, notes that the Kickapoo are first mentioned on September 10, 1640, by their Huron name, Ontarahronon, in le Jeune’s list of tribes taken “from a Huron map that Father Paul Ragueneau sent me.” He also speculates that the tribe may have been heard of and even visited as early as the 1650s by Pierre-Esprit Radisson, the French fur trader and explorer who helped establish the Hudson’s Bay Company.³³

R. David Edmonds started his teaching career in Bloomington, Illinois, and wrote his unpublished master’s thesis on the Kickapoo, before proceeding on to a distinguished career as an author on American Western history, Native American history, and the Potawatomi, Shawnee, and other Great Lakes tribes. His research claims that gift-bearing, friendly Kickapoo tribal members were first encountered by Father Jean Claude Allouez, a French Jesuit missionary and explorer. They were encamped in south central Wisconsin in 1670. He cites another arrogant early French source at this time who described the Kickapoo as “very sportive when among their own people, but grave before strangers; well built; lacking in intelligence, and dull of apprehension, easily persuaded; vain in language and behavior, and extremely selfish. They consider themselves much braver than their neighbors; they are great liars, employing every kind

³² John Boatman, *Wisconsin American Indian History and Culture: A Survey of Selected Aspects* (Milwaukee: University of Wisconsin Press, 1993), 115-116.

³³ James Silverberg, “The Kickapoo Indians: First One Hundred Years of White Contact in Wisconsin,” *The Wisconsin Archaeologist* (September 1957): 69-70.

of baseness to accomplish their ends; but they are industrious, indefatigable, and excellent pedantrians.”³⁴ Drawing from Franciscan Father Louis Hennepin’s journal, historian R. David Edmunds places the Kickapoo and Mascoutin tribes living in co-mingled communities along the Wisconsin River in 1680.³⁵

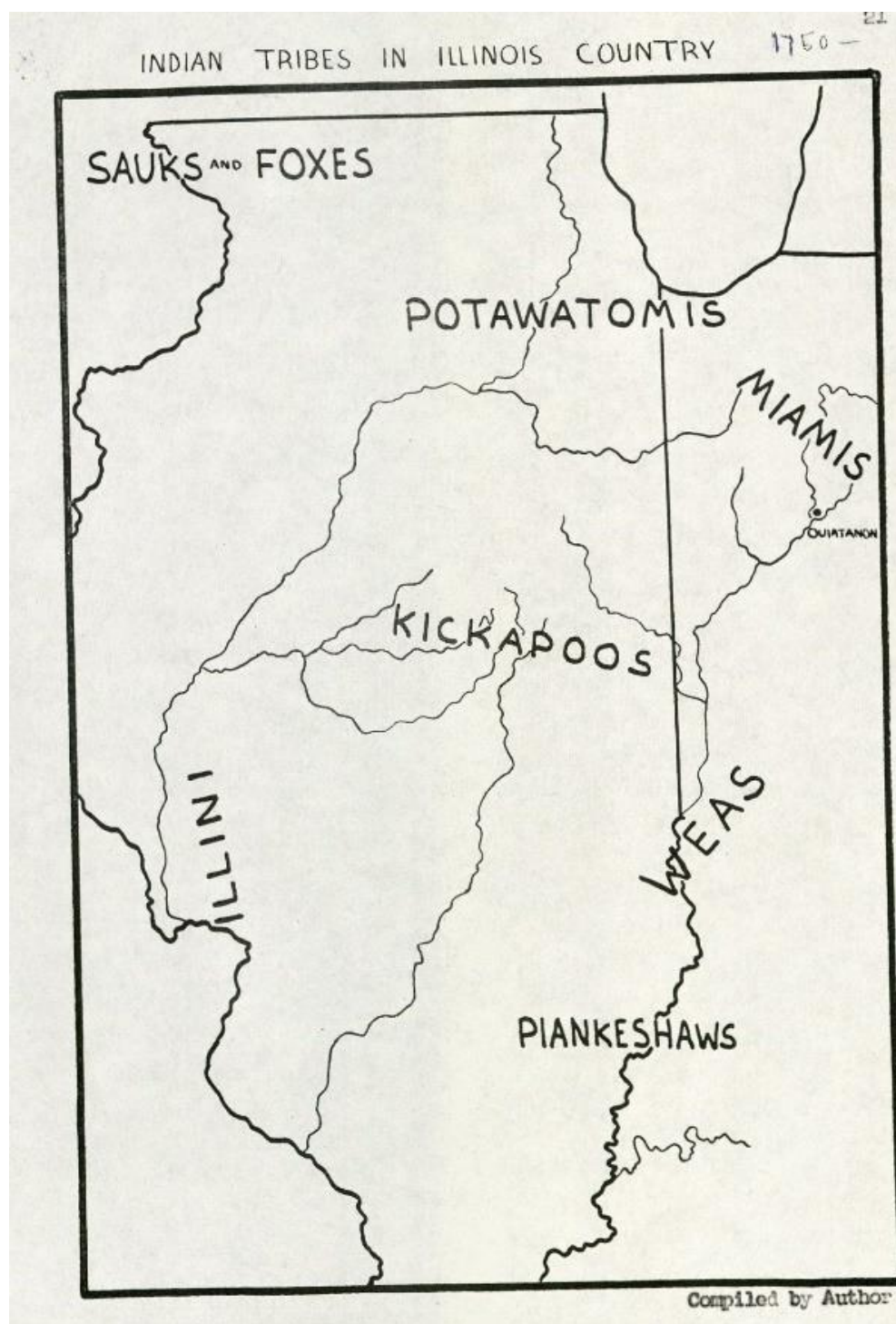
The Kickapoo by 1700, according to Edmunds, were on the move again and migrating increasingly southward out of Wisconsin into present-day Illinois and western Indiana for several reasons to be discussed in a subsequent chapter.³⁶ By 1750, he clearly places the Kickapoo in east central present-day Illinois.³⁷ (See corresponding map)

³⁴ R. David Edmunds, “A History of the Kickapoo Indians in Illinois from 1750-1834,” M.A. thesis (Bloomington-Normal, Illinois: Illinois State University, 1966), 4.

³⁵ *Ibid.*, 5.

³⁶ *Ibid.*, 8.

³⁷ *Ibid.*, 21.



Tracking the Kickapoo southward into central Illinois in the mid-18th century. Source: R. David Edmunds, "A History of the Kickapoo Indians in Illinois from 1750-1834," p. 21.

Silverberg concurs with Edmund's finding, citing the added impetus of French colonial administrator Pierre le Moyne Sieur d'Iberville's 1702 adjustment/resettlement plan of the Mississippi Valley tribes. Silverberg writes, "To a certain extent [it] was gradually accomplished. ... The Illinois in the early years of the [18th] century migrated in large numbers to the site now called the American Bottom ... along the Mississippi below the mouth of the Illinois River ... [while] the Kickapoo from the Fox River Valley of Wisconsin moved into the region the Illinois left unoccupied [and] the Mascouten and Potawatomi gradually shifted south and southeast around the end of Lake Michigan."³⁸

Overall, Silverberg summarily places the Kickapoo as follows:

1. 1640-60: A rumored tribe with "Prairie" (or "Fire") Indians for eastern neighbors and Winnebago for northern or western neighbors. Amount of tribal dispersion unknown.
2. 1660-70: A scarcely observed tribe, always associated with at least the Fox and Mascouten, apparently not as yet in the Fox River Valley area (Wisconsin), but rather westward or southward, occasionally warring to the northwest. Amounts of tribal dispersion unknown.
3. 1670-80: Apparently localized around the Fox River Valley in the area known as Mission of St. Jacques, dwelling with other tribes, as drawn. They were close to Potawatomi and possibly Fox tribal communities who were trading with white goods. Amount of tribal dispersion unknown.

³⁸ Silverberg, "Kickapoo Indians," 91-92.

4. 1680-1730: A widely dispersed tribe. Observations recorded in this paper indicate that the tribe was reported in very widely separated localities during this half-century at an approximate rate of one observer for every two years.³⁹

Regarding material evidence, pieces of pottery can also help to plot archaeological concentrations of pre-contact cultural homogeneity.⁴⁰ A rough approximation of the distribution of tribes between 1400-1600 A.D. and before European contact then becomes partially plausible based upon the distribution of ceramic wares and styles. The more distinctive of these artifacts and the greater the number of corresponding sites within a region, it follows, the more reliable the speculation about where tribes can be placed before they encountered Europeans.

This methodology has led to the identification of three cultural ceramic traditions in the Great Lakes region between 1000 A.D. and European contact in the early 17th century: (1) the Woodland tradition located along the Atlantic seaboard and the northern Midwest; (2) the Upper Mississippian tradition located along the upper Ohio and Mississippi River valleys; and (3) the Mississippian tradition located in the southern parts of Indiana and Illinois.⁴¹ To further clarify, Cahokia Mounds and its inhabitants are associated with the Mississippian cultural tradition. They were separate and distinct from the Illiniwek tribes, who were Algonquian (Woodland cultural tradition), not Mississippian or Upper Mississippian cultural tradition (Siouxan).

The Kickapoo and the Illiniwek tribes are both linked to the Woodland ceramic tradition, which dominated the entire Great Lakes region by far. It included nearly all the villages of agriculturally oriented tribes and northern hunters who lived on or near the shores of all five of the Great Lakes. Furthermore, two subdivisions within the Woodland ceramic tradition have

³⁹ Ibid., 129-130.

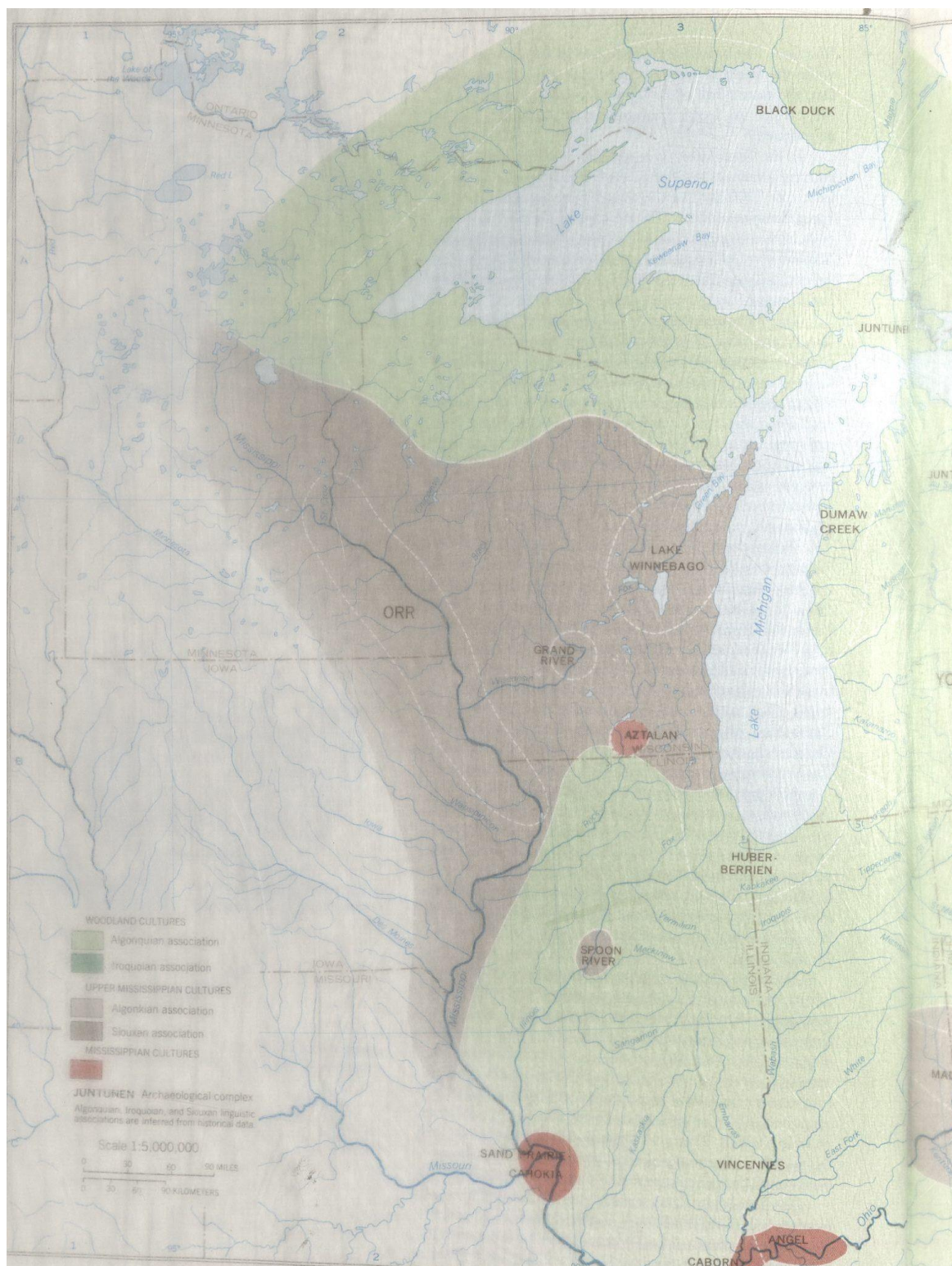
⁴⁰ Tanner, *Atlas of Great Lakes*, 26-27.

⁴¹ Ibid., 25.

been identified and associated with two distinct language groups. Those are the Iroquoian language group associated with the New York and Ontario tribal cultures and the less well-documented Algonquian language group linked with tribal cultures stretching from the Straits of Mackinac northward into Manitoba and Ontario and southward into what later became states bordering on the shores of the Great Lakes.



Using archaeological evidence to place Kickapoo in a late pre-contact context. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 27.



Locating the Kickapoo in an Algonquian/Algonkin context in late pre-contact era. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 26.

It bears remembering, however, that this sort of archaeological mapping holds far more meaning and legitimacy to non-Native, Western-trained academicians than for Native tribes, who have oral traditions that extend well beyond the era of European contact. Generally speaking, pre-contact cultures such as the Kickapoo located themselves across the land of the Great Lakes region in response to the natural features of particular environments, such as watersheds, climate zones, and/or biological communities, and that pattern served to define respective cultural boundaries as well. Applying similar historiography of the Western academy since the early 17th century, Native American tribal cultures in the Great Lakes region have been lumped into three main categories: (1) the resident people; (2) refugees forcibly moving westward, mostly from the East Coast; and (3) temporary allies or opponents coming from outside this region from the south and/or the west.⁴² As the 18th century unfolded, the Kickapoo of east-central Illinois were identified as resident people, who also often increasingly absorbed members of the Mascouten into their tribal communities.

⁴² Gibson, *Kickapoos*, 37.

CHAPTER 5

IMPORTANCE OF THE KICKAPOO LANGUAGE, ORAL TRADITIONS, AND STORIES

Every tribe's history resides in its own language. Hence, if a tribal language dies, the most important repository of that particular tribe's history arguably is also lost forever in the annals of human history. The oral traditions and stories of individual tribes are the lifeblood of each tribal culture, so preserving them in the Native language is essential for retaining and understanding context, meaning, depth, and nuance.

A case in point is the origin and meaning of the name "Kickapoo." According to non-Native scholarship, that word derived from the Algonquian word "Kiwikapawa/Kiwigapawa," meaning "he moves about, standing here, now there."⁴³ In fact, the word "Kickapoo" is a Euro-American bastardization of the cultural, language, context, and meaning by which these people refer to themselves. Arguably, no Native American tribal name has been more distorted in post-Contact history and so thoroughly appropriated for non-Native usage. Because this anglicized derivation rolls off the non-Native tongue so easily, it has been adopted by geographers, soldiers, politicians, and lay people in the non-Native vernacular. It is used in place names in at least eight states and attached to towns, parks, and battlefields as well as rivers, creeks, and geological features (e.g. Kickapoo Gap in south Texas). Non-Native fraternal orders and youth organizations have also adopted it. But nobody was more responsible for widespread and common usage of the word in mainstream popular culture historically than the Kickapoo Medicine Company of New Haven, Connecticut. In the late 19th century, two hucksters named Healy and Bigelow popularized a marketing brand in their wide-ranging medicine show to sell

⁴³ Mary Nunley, "Kickapoo," *Encyclopedia of World Cultures* (1996), accessed November 14, 2012, <https://www.encyclopedia.com/history/united-states-and-canada/north-american-indigenous-peoples/kickapoo>.

“Kickapoo Indian Cough Cure,” “Kickapoo Indian Salve,” and “Kickapoo Indian Sagwa”—an array of purported wonder drugs and concoctions that were guaranteed to cure symptoms of dyspepsia such as neuralgia, headache, constipation, kidney disease, liver and stomach ailments, and female disorders.⁴⁴

Most importantly, however, and according to Ekoneskaka (Aurelio Valdez Garcia), a Kickapoo from Eagle Pass, Texas, the origin of the name is much more complex:

Indian, that's not really who I am. That's some name the white people gave me. It was a mistake, a kind of big joke. I'm not an Indian. Native American, now what's that? The name “America” came from some egotistical mapmaker in Italy. I'm not a Native to him and his problems. Kickapoo, that's not really who I am either. There's a Kickapoo Park in Illinois, and there's a Kickapoo Dry Meat Factory in Coahuila, but that's also some name the white people came up with because they didn't have the inclination to fit their mouths around “Ki-ki-ka-pa-wa.” As Crying Wind, one of our tribal elders, says, “Ki-ki-ka-pa-wa” tells you more about me and my people. It means “to walk about,” like to walk from here over to there, and then maybe to walk back, or then maybe to keep going. But it means you go out on foot, maybe hunting, maybe just wandering free and easy, but always moving only on your own two feet, maybe you are looking for something, anything, and maybe you're not, but you're walking around that's for sure, you're walking about here and there, usually searching and seeking, but always waiting for something to happen... But now, no matter what, you do have a better idea about where the word “Kickapoo” comes from. It's not just a mythical word, or a name for a child's pet donkey in a book on the shelf of your new town library. But just as you don't ever really see the war drum, so we don't call ourselves “Kickapoo.” We don't call ourselves “Ki-ki-ka-pa-wa.” The word we use is “Me-thu-de-ne-nia,” the People.⁴⁵

Many resident tribes freely interacted throughout the Great Lakes region. They spoke a variety of different languages and dialects that have been grouped by Euro-American scholars into three principle linguistic categories: (1) the Algonquian; (2) the Iroquoian; and (3) the Siouan.⁴⁶ The Kickapoo are categorized as part of the Algonquian language group, which dominated much of the Great Lakes region, the northeastern U.S., and up and down the Atlantic

⁴⁴ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman, Oklahoma: University of Oklahoma Press, 1963), ix.

⁴⁵ Jim Salvador, “An Oral History,” *Parnassus: Poetry in Review*, vol. 17, no. 1 (1992): 170-174.

⁴⁶ Helen Hornbeck Tanner, *Atlas of Great Lakes Indian History* (Norman, Oklahoma: University of Oklahoma Press, 1987), Map 5, 26-7.

seaboard to Virginia. They pretty much encircled the Iroquoian speakers. Many Algonquian-speaking tribes were conversant in multiple tribal languages. Nevertheless, intertribal councils involving multiple tribes typically required interpreters.

Traveling throughout this region, one will find Native American place names that are drawn from an assortment of tribal languages. For instance, the latest etymological research makes a strong case that the name “Chicago” refers to *Allium tricoccum*, a plant once found in abundance along what is now known as the Chicago River. This plant is known to the historical French as *ail sauvage*, literally wild garlic, and to modern American English speakers as the wild leek or wild onion.

According to Michael McCafferty, a historical linguist at Indiana University:

Place names created by Native Americans in the land known as the American Midwest generally fall into three categories. A name can be a descriptive term for a river, lake, site, and so on. The name of a stream or lake can refer to a prominent aquatic animal, spirit or plant living in or near its waters. Sometimes, the name of a place, river, or lake can embody a tribe name (e.g. Little Kickapoo Creek in McLean County, Kickapoo State Park in Vermilion County, and the Kickapoo Slough in Rock Island County, all in Illinois). Moreover, in late historical times on rare occasions, a personal name of some well-known individual, usually a Native leader who lived there (e.g. Saunemin in Livingston County, Illinois or Chenoa in McLean County, Illinois).

In other words, most genuine historical American Indian place names in the mid-continent tend to be descriptive expressions, applied by prehistoric and early historic hunting-gathering-farming peoples specifically for geolocational purposes within a complex natural world. In this way, their function is, for the most part, quite different from European language place names later established in the same area. The latter tend to serve other kinds of cultural needs. However, the penchant that the former has for communicating direct, meaningful, and typically very useful information, most often geophysical, spiritual, biological, or ethnonymic in nature, is their most salient characteristic. In this light, one should not underestimate their

significance in indigenous societies. For instance, “ammoonie,” the Miami-Illinois word for red ocher or hematite, was the name of a very historically important Illinois River tributary known today as the Vermilion, from “Vermillion,” the French translation of “ammoonie.” The Native name indicated that there was an abundance of this mineral compound along this stream. This substance was ground into powder, rendered to paste, and then used, for example, as body paint. Therefore, this river’s name served the function of defining it as a source of a very important cultural item. In Indian America, examples of such vital information—rich place names are legion.⁴⁷

Harkening back to an earlier example, McCafferty notes the following:

The term we today write as “Chicago” is a French spelling that represents “sikaakwa,” the word for the striped skunk in Miami-Illinois, an Eastern Great Lakes Algonquian language. The “s” represents the sound “sh” in English, as in she; the “i” is the sound written, “ee” in English feet, but does not have a diphthong. The term “sikaakwa” also connoted a plant and, as Swenson has determined, it referred in this tongue to *Allium tricoccum*. Local proto-historic Native Americans did not create place names for the deer or the raccoon, let alone the striped skunk, since these animals inhabited nearly all the local natural resource zones. However, when it came to identifying place names, they considered plants to be a different matter, owing to the great natural variation in their distribution. As noted above, early American Indians commonly named bodies of water after plants that were especially prolific in their watersheds. This practice never implied that a particular eponymous plant grew everywhere along a river or a lake, but that it grew in eye-catching abundance at some point(s)...⁴⁸

The Kickapoo language is closely related to the Mesquakie-Sauk language, so much so, in fact, that some linguists consider it to be a dialect of the Mesquakie-Sauk language. However, unlike other Algonquian languages, Kickapoo is a tonal language in which the pitch of a vowel can change the meaning of a Kickapoo word.⁴⁹ Some syllables are pronounced with higher pitch

⁴⁷ Michael McCafferty, “A Fresh Look at the Place Name Chicago,” *Journal of the Illinois State Historical Society*, vol. 96, no. 2 (Summer 2003): 116.

⁴⁸ *Ibid.*, 116-117.

⁴⁹ “Vocabulary in Native American Languages: Kickapoo Words,” Native Languages of the Americas, accessed December 17, 2017, http://www.native-languages.org/kickapoo_words.htm.

than others. In English, the last syllable of a question is pronounced with high pitch, so you can hear the difference between sentences like, "You see a man." and "You see a man?" In Kickapoo, such high and low tones are used in nearly every word, giving the language a lively sound.

Most of the time, Kickapoo tones are predictable. For example, a syllable that begins with h, s, or θ is always a low tone. The third-from-last syllable of a word is usually high tone, and the last two syllables are usually low tone. "Nesehki" means my stomach and "nenehki" means my hand. Listening to each, they sound quite similar except in the former, the second syllable is always a low tone. Other times, however, the tone of a Kickapoo word cannot be predicted at all. One simply learns the tone at the same time one learns the rest of the word's pronunciation.

There are four Kickapoo tones: high, low, rising (starts low and becomes high), and falling (starts high and becomes low). Rising and falling tones only occur on long vowels and are considered by some linguists as a high tone on the second half of the vowel or a high tone on the first half of the vowel, for analytical purposes. For the purposes of pronunciation, however, thinking of the tones as rising and falling may help to encourage proper pronunciation.

The tones are usually written like this:

a low tone

á high tone

aá rising tone

áa falling tone

Like many other tribal languages, Kickapoo was in jeopardy of disappearing in the U.S. for many years. Between the 1880s and the 1930s, it was the official policy of the U.S. government to systematically break up tribal cultures once and for all. One of the principal

means was to remove tens of thousands of children from their families and move them to boarding schools scattered across the country with a view toward forcing them to abandon traditional ways and presumably assimilate into mainstream society. Within those boarding schools, Native students were strictly prohibited from speaking their respective tribal languages.

Since the early 1970s, however, with the shift in federal Native policy toward greater respect for tribal self-determination and cultural sovereignty, it has become possible for interested tribes to undertake language renewal efforts.

While the Kickapoo language remains endangered and underutilized broadly speaking, it is being revived in places like the Kickapoo Nation's School in Powhattan, Kansas, where students have been instructed in oral and written Kickapoo since 1986.⁵⁰ In a complementary effort, it was also used for the first time in an independent feature length movie, "The Only Good Indian," which was directed by Kevin Wilmott and released in 2009. Currently, Kickapoo children learn the language in their homes in the most traditional tribal community in Nacimientos in Coahuila Province in Mexico and outside Eagle Pass, Texas.

[SIDEBAR: Courtship Whistling: Uniquely Kickapoo]

In addition to speech, young Kickapoo boys and girls devised their own unique way of communicating—courtship whistling—long before the onset of texting and tweeting in the 21st century. Not to be confused with flirting or serenading, this is an effective system of personal communication based upon the pitch, accent, and cadence of the Kickapoo language. Generic whistling is a technique used for communicating in other cultures, but the Mexican Kickapoo are

⁵⁰ Victor L. Dupuis and Margery W. Walker, "The Circle of Learning at Kickapoo," *Journal of American Indian Education* vol. 28, no. 1 (1988), 27-33.

the only culture to use it intricately for courtship purposes.⁵¹ In fact, it is not practiced within Kickapoo communities in Oklahoma and Kansas.

This whistling system, called “onowecikepi” in Kickapoo, is most commonly used by young couples, but it is also used secondarily by other community members for other reasons. One boy or girl may communicate with another boy or girl, or it could be used by a married couple.

Courtship whistling involves cupping one’s hands together and blowing air into the cavity between the knuckles of one’s thumbs, which are placed vertically against one’s lips. Three fingers from the right hand are cupped, so that the fingertips rest near the base of the left index finger. The fingers of one’s left hand control the aperture at the back of the hands, opening and closing to further modulate the tone produced by one’s mouth and lips.

On any given night in Nacimientto, courtship whistling can be heard sporadically once the sun goes down, continuing into the wee hours of the night. Typically, a young man will devise whistling messages with his girlfriend ahead of time. One or more young men will build a fire in or near the village. Next, they will each whistle to invite their girlfriends to join them. A young woman will step outside her house and answer in kind. The young woman knows it is her boyfriend by the nature of his whistling, just as if they were speaking. Whistling messages go back and forth usually involving standard phrases such as “Come on”, “Wait a minute”, “I’m coming”, “No, not now”, or “I’m thinking of you”. However, whole conversations may also play out by whistling. One couple may use whistling to meet privately, but sometimes it is used to gather a party of a dozen or more to sing, dance, talk, and drink together for a good time. It is a principal means of recreation for young people in the community after dark, despite some

⁵¹ R.E. Ritzenthaler and F.A. Peterson, “Courtship Whistling of the Mexican Kickapoo Indians,” *Speech Surrogates Part II*, eds. Thomas E. Sebeok and Donna Jean Umiker-Sebeok (The Hague: Mouton, 1976), 1410-1411.

parental disapproval for staying out so late. Boys and girls as young as seven or eight years of age learn to whistle from hanging around gathering spots and observing older siblings.

Courtship whistling is not a foolproof system and not one to be used nonchalantly because other community members may be able to interpret the whistling messages, exposing the young couple to teasing, mocking, and parental disapproval. This endearing practice is thought to have developed around 1915, not surprisingly by young men and women who were looking to communicate with one another confidentially and beyond parental scrutiny. It was banned for some time and policed locally within the community, but it really took root in the 1940s and has become more commonplace ever since.

Before whistling, a young Kickapoo man used a lover's flute for courtship. He would sit on a hillside or up in a tree and serenade his sweetheart to join him. Again, each flute had its own distinctive sound and a young woman could recognize a flutist's personal style and melodies.

PART II**ALL WAS NOT PEACEFUL**

CHAPTER 6

INTERTRIBAL CONFLICT IN PRE-EUROPEAN CONTACT PERIOD

The first scattered contact that the Kickapoo had with Europeans was with French trappers, traders, and Jesuit priests.⁵² Among the assorted tribes, they were a notable exception to cross-cultural accommodation. Almost from the beginning of European contact, the Kickapoo people exhibited a remarkably independent spirit, as well as a studied hostility toward any semblance of acculturation (i.e. the voluntary embrace of non-Native practices and adoption of non-Native cultural traits).⁵³ They patently refused to accept any of the economic, political, and religious doctrines which the French and the British, and later the Americans, sought to impose.⁵⁴

Life for the tribes in the Great Lakes region during the 17th century was also not exactly peaceful and pastoral. In fact, the second half of the 17th century was marred by a long-running series of intertribal conflicts fueled by old animosities and new tensions introduced by the post-European-contact fur trade. Traditional tribal enemies engaged in incessant raids, hostage-taking, surprise attacks on fur brigades, and sometimes long-range strikes by large numbers of warriors. This combat even resulted in the cultural disappearance of a few tribes such as the Mascouten, Erie, and Wenro, who were absorbed by other tribes.⁵⁵

By far, the Iroquois Wars were the most wide-ranging and consequential. Arguably, this was among the earliest major destabilizing impacts of European contact, in addition to the

⁵² Reuben G. Thwaites, ed., *The Jesuit Relations and Allied Documents: Travel and Explorations of the Jesuit Missionaries in New France, 1610-1791*, vol. 18 (Cleveland: Burrow Brothers, reprinted Pageant, New York, 1959), 233-234.

⁵³ *Ibid.*, vol. 55, 182-183.

⁵⁴ Nicolas Perrot, "Memoir on the Manners, Customs, and Religion of the Savages of North America," in *The Indian Tribes of the Upper Mississippi Valley and Region of the Great Lakes*, ed. Emma H. Blair, vol. 1 (Cleveland: Arthur H. Clark, 1911), 23-272.

⁵⁵ Charles Callender, Richard K. Pope, and Susan M. Pope, "Kickapoo," in *The Handbook of North American Indians*, ed. Bruce G. Trigger, vol. 15 (Washington: Smithsonian Institution, 1978), 662.

epidemics of new diseases that wiped out as many as 30 to 50 percent of the population within many tribes. As the beaver supply in and around upper New York was decimated, the Iroquois Confederacy went on the warpath in 1641 and dispatched warriors to harvest beaver fur in hunting grounds of neighboring tribes for trade with the British at Albany, New York.⁵⁶ Conflict ensued with the Huron Confederacy and other tribes in the Algonquian range to the west and to the northwest into Canada, who were engaged in fur trade with the French. That action upset the rough long-standing balance of power which had previously existed between the rival Iroquois and Huron confederacies. An irreversible tipping point was reached decisively in favor of Iroquois military superiority, as they attained ever-increasing supplies of more effective British-supplied guns and ammunition. Once the Huron Confederacy was defeated, several decades of intense wide-ranging conflict followed, as Iroquois warriors sporadically ranged farther westward and pushed other Algonquian tribes in what is now Pennsylvania, Ohio, Michigan (where the Kickapoo had been located), and Indiana into migrations even farther westward toward the Mississippi River.⁵⁷ Short-lived intertribal peace treaties repeatedly gave way to the on-going Iroquois assault. By 1665, the Kickapoo had been forced to relocate and regroup in villages on the Wisconsin and Fox Rivers in south-central Wisconsin.⁵⁸ In further response, they formed and led an Algonquian Confederacy (with the Fox and Mascouten tribes) to wage guerilla raids and mount a spirited, sustained counterattack over many years against any further expansion of French empire-building into the Green Bay area and southward into their villages along the Fox River, or their hunting camps located farther southward along the Illinois River.

⁵⁶ Helen Hornbeck Tanner, *Atlas of Great Lakes Indian History* (Norman, Oklahoma: University of Oklahoma Press, 1987), 29.

⁵⁷ See my corresponding personal map entitled “The Kickapoo Trail of Cultural Resistance and Resilience Migration Across the U.S. to Mexico” in the preface.

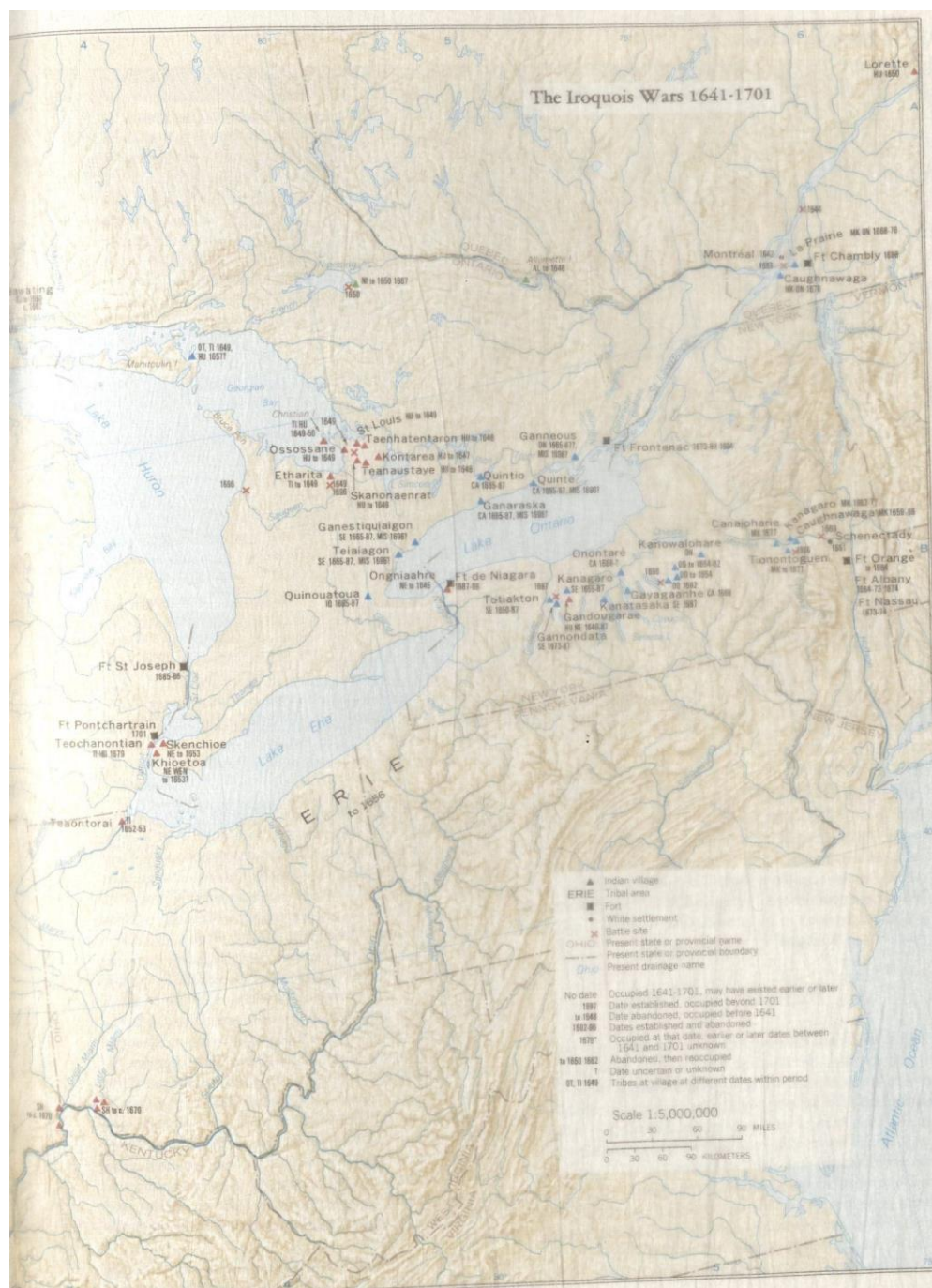
⁵⁸ Tanner, *Atlas of Great Lakes Indian History*, Map 6, 32-33.

To make matters worse, the Kickapoo Confederacy by 1680 was confronted with two additional invasions of Algonquian territory—from the Sioux tribal nation in the west and from the emboldened Iroquois Confederacy in the east, both freshly armed in conjunction with their on-going fur trade with the French. Understandably, the Kickapoo blamed the French for their territorial predicament and the worsening armed incursions. In 1683, the Kickapoo and their other Algonquian tribal allies were increasingly besieged in the Green Bay area, so they petitioned the French authorities for arms and aid to repel the Sioux and Iroquoian invaders. Reluctantly, French authorities agreed upon a policy of reconquest and armed the Kickapoo, but they explicitly sought to limit the Kickapoo and their tribal allies to waging defensive warfare. Soon thereafter consequently, sixty Kickapoo warriors were reportedly slain in a surprise Iroquoian raid.

In defiance of the wishes of the French authorities, the Kickapoo Confederacy in 1684 went on the offensive and pushed back against the Iroquois and Sioux respectively. One band boldly raided across the Mississippi River to strike against Santee Sioux villages. Against the odds, the Kickapoo Confederacy gained the upper hand by the following year and became renowned militarily throughout the Algonquian range, wherein they also became a ceaseless peril to French interests. Between 1685 and 1690, Kickapoo war chiefs conducted raids into territory of the Osage and Kansa tribes on the Missouri side of the Mississippi, while other war parties raided eastward against the Iroquois as far as Niagara. During the 1690s, Kickapoo warriors agreed to serve as vanguard for French military expeditions against the Iroquois, but they also steadfastly refused French attempts to organize them into formal units for the defense of French imperial designs. Concurrently, there occurred a splintering of Algonquian unity during this decade, as some leaders of the Potawatomi and other tribes began to complain about a

growing scarcity of trade goods attributed to recurring Kickapoo raids against French convoys. In frustration, they petitioned French authorities to rein in the Kickapoo.

Ultimately, military matters came to a head and the Iroquois Confederacy sued for peace in the late 1690s, when they were pointedly forced on the defensive by the French and their allied western tribes. In 1701, three principal peace councils were organized. They were convened in Onondaga, the diplomatic headquarters of the 5-nation Iroquois Confederacy; in Albany, where British officials presided over negotiations between the Iroquois, on one side, and with the Ottawa tribe in the lead for the attending Algonquian tribes, on the other side; and in Montreal, where the French Governor General, seeking to establish a lasting peace with the Iroquois and to tame the Kickapoo Confederacy at the same time, convened a general Indian Congress of more than twenty tribal delegations to negotiate a comprehensive peace treaty between the Iroquois Confederacy and an assortment of more than twenty other western, eastern, and northern tribes (including, but not limited to Kickapoo, Sac, Fox, Mascouten, Miami, and Illiniwek representatives).



Placing tribes, European colonial settlers, and forts across the Algonquian Range during the second half of the 17th century. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 33.

Locating the Kickapoo among other tribes in southern Wisconsin along the Fox River during the Iroquoian Wars, 1641-1701. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 32.

Leading men of the Kickapoo nation were among the tribal representatives who gathered at the final peace council in Montreal in August 1701, which resulted in a general proclamation of peace and a far-reaching intertribal exchange of prisoners. The affected geographic area stretched from the outer boundaries of the Great Lakes region all of the way to the St. Lawrence River and upper New England to the east, to the Ottawa River in Ontario to the north, to Lake Superior in the west, and to southwestern Illinois Country on the Mississippi River. The Iroquois Confederacy pledged neutrality between French and British authorities and were allowed to continue to hunt in Canada. Setting an important precedent, Ottawa tribesmen on behalf of the Algonquian tribes, were also free to travel safely through Iroquois territory to trade in Albany.

Once this negotiated end to intertribal warfare took hold and greater stability set in, the French regime reversed its general engagement policy of the 17th century which had been predicated upon wide-ranging exploration of the Great Lakes region and a steady expansion of trade and interaction with inhabiting tribes. This dramatic shift in French policy toward retrenchment in their dealings with the various tribes had begun in 1696, precipitated by depleted military coffers and a glut in the European fur market. Growing complaints from the Jesuits also helped persuade the French king to revoke fur-trading privileges and abandon western French military outposts. The only exception to this general withdrawal remained Fort Ponchartrain near Detroit under command of Antoine Cadillac, which was maintained under terms of the 1701 Peace Treaty of Montreal. Generally speaking, that retrenchment policy remained in effect between 1696 and 1715, after which time French forts were re-established in the Upper Great Lakes region between 1715 and 1720. Ominously, the developments in Montreal had left open the door to subsequent French reoccupation of the Illinois Country.

CHAPTER 7

TOPSY-TURVY KICKAPOO-FRENCH RELATIONS

From the dawning of the 18th century, French authorities across the Great Lakes region wasted no time in pursuit of their government's new policy of re-engagement with the array of tribes across what was viewed as colonial New France. Unlike the Spanish colonizers in the Southwest who were most interested in finding gold and silver, or their English counterparts pushing westward from the Eastern Seaboard who were most interested in displacing Indigenous peoples from their lands and establishing permanent settlements upon it, French colonizers were more interested in co-mingling, co-habiting, and deepening trading ties. Between 1701 and 1720, the old French military/trading posts at Green Bay and points south were reestablished and new ones were erected. The old practice of encouraging friendly tribes to locate near French posts was resumed. The Ottawa, Potawatomi, and even one band of Mascouten and one band of Fox tribespeople gathered in Detroit. In cross-cultural terms, there began to evolve what the French called the *pays d'en haut*. The distinguished historian Richard White has painstakingly documented that "the French and the Algonquians were trading partners and allies and the boundaries of the Algonquian and French worlds melted at the edges and merged. Although identifiable Frenchmen and identifiable Indians obviously continued to exist, whether a particular practice or way of doing things was French or Indian was, after a time, not so clear. This was not because individual Indians became "Frenchified" or because individual Frenchmen went Native, although both might have occurred. Rather, it was because Algonquians were perfectly comfortable with their status and practices as Indians, so the French newcomers, while equally confident in the rightness of their French customs and lifeways, nonetheless had to deal with people who shared neither their values nor their assumptions about the appropriate way of

accomplishing tasks. Both the Indian tribes and the newly arrived French, respectively, had to arrive at some common conception of suitable ways of acting; together, they had to create what I have already referred to as a middle ground.”⁵⁹

However, for nearly three decades the Kickapoo took no part in this rapprochement and would have none of it. To the contrary, the Kickapoo in 1712 launched their own all-out war against French interests, creating a new menace as deadly as the Iroquois campaign had been earlier. It was preceded earlier that year by an 18-day siege of Fort Detroit by Fox and Mascouten warriors, which was ended by a concerted counterattack waged by a combined force of Illiniwek/Illinois, Missouri, Osage, Ottawa, and Potawatomi warriors acting in alliance with the French military. The Kickapoo did not arrive in time to participate and help the Fox and Mascouten in that event. As a result, the Mascouten were driven to Presque Isle and decimated.

It is noteworthy that the military engagement marked the beginning of a long-running anti-Fox campaign by the French military, which probably included French troops’ attack on the Fox in the 1730s near what is now Arrowsmith, Illinois.

[SIDEBAR: The Missing Kickapoo Link to Solving the Battlefield Mystery of the French Assault on Mesquakie/Fox]

Kickapoo oral tradition and related stories quite probably contain the answers sought by Euro-American historians and archaeologists for more than 150 years to questions about the location, dynamics, and logistics of one of the most important battles of the Mesquakie Wars fought in what was called New France during the first half of the 18th century.

The Mesquakie tribe (known as the Fox Indians to non-Natives) were among the leeriest of expanding French intervention in the Midwest and had long enjoyed cordial ties with the

⁵⁹ Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*, ed. 2 (New York: Cambridge University Press, 2011), 50.

Kickapoo people. Seeking to evade and escape further French depredations in Michigan and Wisconsin, the Mesquakie people ultimately sought to migrate eastward to safety in the domain of the Iroquois Confederacy. But having recently exchanged hostages with the Kickapoo and forged a new alliance, French authorities enlisted the help of the Kickapoo as well as that of the Illiniwek/Illinois, and other friendly tribes to block the planned escape routes plotted by the fleeing Mesquakie across Illinois Country.

More specifically, an estimated party of more than 500 Mesquakie warriors, women, and children were surrounded on the vast prairie in August and September of 1730 by a hostile force comprised of nearly 2,000 French soldiers and their Indian confederates. The Mesquakie refugees erected a makeshift fort and fought off several coordinated attacks, before becoming besieged for at least eighteen to twenty-three days. More than 300 Mesquakie men, women, and children were killed as they sought to break out of their increasingly desperate circumstance. It is thought fewer than sixty survived that crushing military assault, as the French sought to eliminate Mesquakie intransigence once and for all.

For more than 150 years, non-Native scholars have tried to reliably determine the exact location of that battlefield in east-central Illinois and glean more details of what happened and why. But nobody apparently has sought the pertinent knowledge embedded in the oral traditions passed down across several generations among the living tribal elders, historians, and members of the Kickapoo Nation.

The most likely site is near the small town of Arrowsmith in McLean County, Illinois, as further substantiated by an unpublished narrative discovered in the French National Archives in the Spring of 1989. That new documentation led to more illuminating archaeological digs later

*that year. Nevertheless, the evidence accumulated by Western scholars remains inconclusive to date.*⁶⁰

By the summer of 1713, the Kickapoo had reconstituted their Confederacy with their surviving Fox and Mascouten allies and commenced renewed warfare very effectively against the French, even putting out feelers to the Iroquois to join their alliance. In response, the French organized and launched a massive military campaign against the Kickapoo Confederacy in 1715 and recruited Huron, Potawatomi, and Illiniwek/Illinois warriors to attack the Kickapoo and their allies. Various military tactics were deployed by the Kickapoo and the French and their tribal allies over the course of this shifting, wide-ranging conflict. For instance, to redress the growing number of Kickapoo raids, French military commanders began scouting Kickapoo encampments in 1726 and taking a number of women and children hostage. That action prompted many Kickapoo to move into the trans-Mississippi West and reunite with Fox Indians in villages along the Skunk River in what became eastern Iowa. Early on in 1728, a Kickapoo war party captured and took hostage a French prisoner on the Mississippi River, who they then used to negotiate an exchange with French authorities. That tit-for-tat of hostage-taking reached its peak in October 1728, when a prominent French trader (Pierre Boucher), a Jesuit priest (Father Michelo Guignes), and 15 additional refugees from the abandoned Fort Beauharnois on Lake Peppin in Minnesota who were fleeing to Illinois country, were captured by a Kickapoo war party on the Mississippi River and transported to Oiuskouba on the Skunk River. Unfortunately, that action led to a split in good, long-standing Kickapoo-Fox intertribal relations. Fox tribal leaders wanted to kill the captive Frenchmen, but their Kickapoo counterparts chose to protect their hostages,

⁶⁰ Lenville J. Stelle, "History, Archaeology, and the 1730 Siege of the Foxes," Champaign, Illinois, publication of Parkland College, Center for Social Research, 1992.

with a view toward using them as bargaining chips with French authorities to secure remaining Kickapoo women and children who were still being kept as prisoners.

Ultimately, in April 1729, Kickapoo-French relations took a decided turn toward rapprochement. A Kickapoo escort traveled to Fort Chartres/Charles in Illinois country with the Boucher-Guignes party and delivered them safely to that French settlement in exchange for Kickapoo captives. That cross-cultural prisoner swap set the stage for the negotiation of a peace agreement between Kickapoo and French leaders which included a formal Kickapoo renunciation of their military alliance with the Fox tribe. While the Kickapoo leaders and their Fox and Mascouten allies altogether were forced into a restive, de facto peace of sorts with French authorities, some Kickapoo warriors admittedly on occasion continued to conduct guerilla raids against vulnerable French fur trains and isolated *coureurs de bois* (i.e. bushrangers).

Generally speaking, the Kickapoo quickly transformed themselves after 1729 into the most reliable tribal defenders of French interests in the region and the concurrent decimation of the Fox nation effectively eliminated that tribe as a threat to French western expansion. To cite one example, having broken ties with the Kickapoo, the Fox sought alliances with the Iroquois and the British against the French in 1730. But Kickapoo warriors trapped and encircled the Fox at Le Rocher/Starved Rock on the Illinois River, alerted the French authorities at Fort Chartres/Charles, and were joined by 100 French soldiers and 1,400 other Indians. After a siege of several weeks, Fox warriors tried unsuccessfully to break out, during which more than 300 died, including countless women and children. Only sixty Fox stragglers escaped and were pursued by the Kickapoo. Acting as mercenaries for the French, the Kickapoo waged warfare in similar fashion against the Chickasaw and Natchez tribes between 1736 and 1750, who were

recruited by British authorities to make inroads into French-dominated territory up and down the Mississippi River and south of the Ohio River in what is now Kentucky and Tennessee.

Also, during this period, the Kickapoo increasingly turned their attention southward from their old, traditional tribal homelands in lower Wisconsin toward the country of the Illiniwek/Illinois Confederacy, in part because of the Illinois tribes' participation in the defeat inflicted upon the Kickapoo during the far-reaching French military offensive that had been launched in 1715. Simmering hostility broke out into prolonged warfare between the Kickapoo and the Illiniwek/Illinois Confederacy, as the Kickapoo sought to exact revenge, to move farther away from French scrutiny and encroachment, and to secure better hunting grounds for buffalo and other game on the Illinois prairie compared to dwindling resources where they were situated. In fact, a few Kickapoo and Mascouten tribespeople had begun settling villages along the Rock River as early as 1718.

Between 1729 and 1750, the Kickapoo fought Illiniwek/Illinois tribes and steadily drove them southward through raids along the Illinois River toward the Mississippi River and lower Ohio Valley. In so doing, the Kickapoo established a new homeland for themselves in much of what constituted Illinois country, ultimately forcing the Illiniwek/Illinois tribal survivors into refuge in Kaskaskia and surrounding French-dominated settlements.

[SIDEBAR: *The Grand Village of the Kickapoo, Associated Fort, and Associated Encampment*]

From the mid-1700s to 1832, the Kickapoo people supplanted the Illiniwek tribes and lived on the lush prairie and nearby major rivers in much of central Illinois. Their largest encampment, the Grand Village of the Kickapoo, was located on a moraine near the existing small town of Leroy in McLean County between Bloomington-Normal and Champaign-Urbana.

Another smaller village site was located near the Vermilion River in adjoining Livingston County to the northeast. There were burial grounds associated with those sites plus a fort/stockade in what had been the Illinois wilderness.

The fort was built on high ground and commanded an extensive view of the surrounding prairie for a distance up to fifteen miles to the northeast, east, southeast, and south. To the west stood a large forest stretching an estimated twelve miles.

During the War of 1812, Major Zachary Taylor (later to become known as “old Rough and Ready” hero of the Mexican–U.S. War and the 12th President of the United States) led a small reconnoitering party of U.S. Army Regulars into a brief skirmish with Kickapoo warriors near that fort.⁶¹

⁶¹ William B. Brigham, “The Grand Kickapoo Village and Associated Fort in the Illinois Wilderness,” *Indian Mounds and Villages in Illinois*, Illinois Archaeological Survey, no. 2 (June 1960): 90-106.

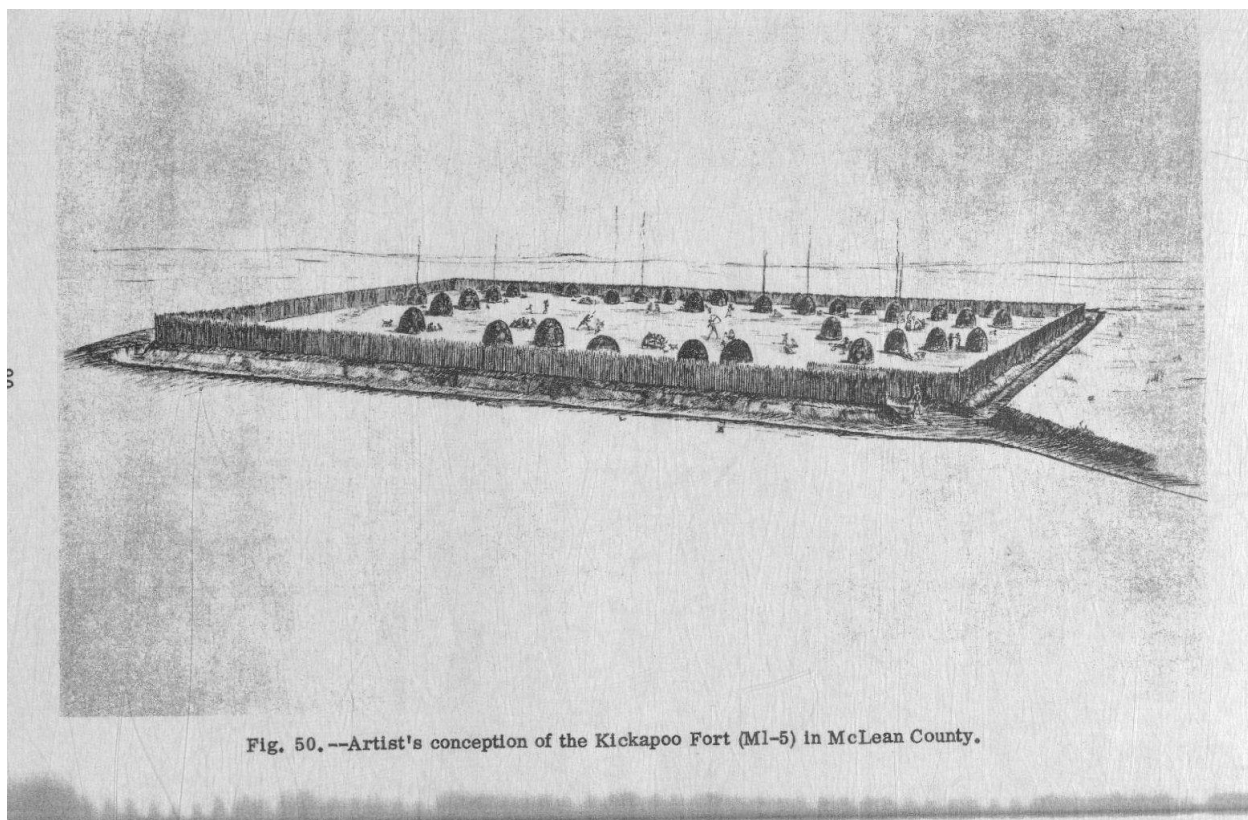


Fig. 50. --Artist's conception of the Kickapoo Fort (M1-5) in McLean County.

In 1998, over 300 members of the Kickapoo tribes of Kansas, Oklahoma, Texas, and Mexico were welcomed back to this site after more than 150 years in forced exile. They returned to what they consider this sacred site in their ancestral lands for a ceremonial celebration of the Homecoming of the Kickapoo Nation Pow-Wow and Dedication of the Grand Village of the Kickapoo Park. Source: Patricia Gonzales, "Heart of Kickapoo Still Buried in Illinois," Native News, Universal Press Syndicate, December 15, 1998.

Throughout the remainder of the 18th century, the Kickapoo continued warfare against the Illiniwek/Illinois Confederacy, seeking their complete annihilation. In 1800, for example, there broke out a massacre of the remaining Kaskaskia tribespeople in their Cahokia camp by Kickapoo warriors, which prompted the fledgling U.S. government to extend special protection to the surviving members of the Illiniwek/Illinois tribes. That action further embittered the Kickapoo, who vowed to kill all of the Kaskaskia because of their favored treatment by federal authorities.

Scholars now estimate the Illiniwek/Illinois population to have been as many as 20,000 in 1650. Astonishingly, by the early 1800s, it had dwindled down to as few as 100.

CHAPTER 8

PONTIAC'S WAR AND NEW ERA IN KICKAPOO-BRITISH RELATIONS

Beginning in the early 1750s, British colonial intrigue steadily peeled away the loyalties of several Algonquian tribes, such as the Miami, Ottawa, and Wea, who had been allied with the French, which put them at odds with the Kickapoo, who remained French allies. This was an important factor in explaining why the Kickapoo remained anti-British after 1763 when the Seven Years' War (also referred to as the French and Indian War) between France and Britain ended with French capitulation. For example, the Kickapoo defended the Ohio-Mississippi perimeters of New France for the French military throughout the prolonged and wide-ranging conflict, even as French soldiers increasingly fell into retreat from Illinois country and narrowed their focus to old settlements in Montreal and Quebec.

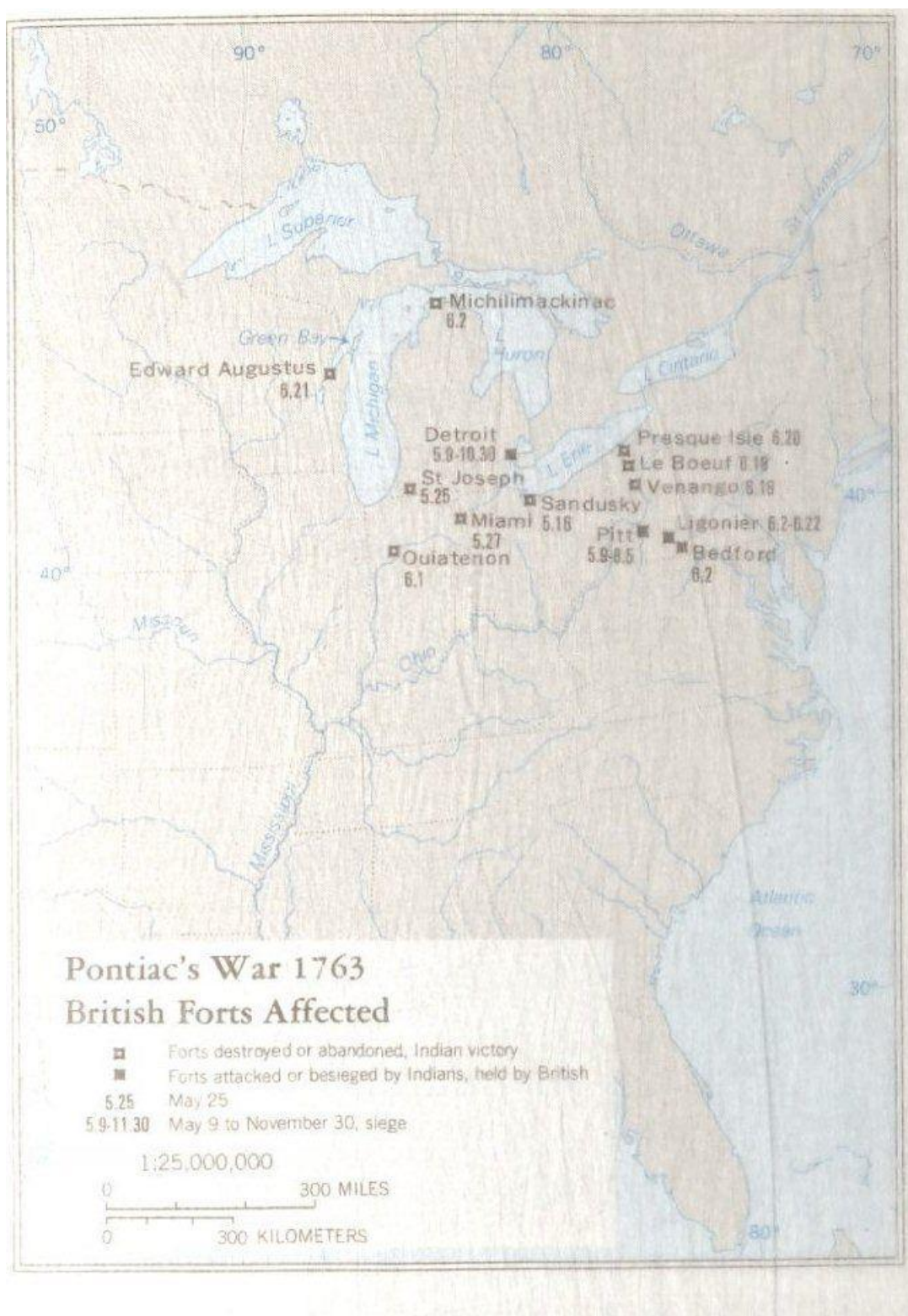
Prior to this conflict, and setting the stage, the 1763 Treaty of Paris marked a pivotal turning point in Kickapoo tribal history because it resulted in the transfer of land title and control of Canada and the lands of New France south to the Ohio River—including the Illinois Country—to Great Britain and Louisiana went to Spain.

The Kickapoo, among other tribal allies of the French, felt abandoned after the Treaty of Paris was signed. Their profound sense of betrayal led directly to the onset of Pontiac's War (1763-1765), where the Kickapoo were instrumental in rallying several Algonquian tribes to wage armed conflict against the British military. This rallying became elevated when the Kickapoo learned that French authorities had given away so much of their land to the British Empire.

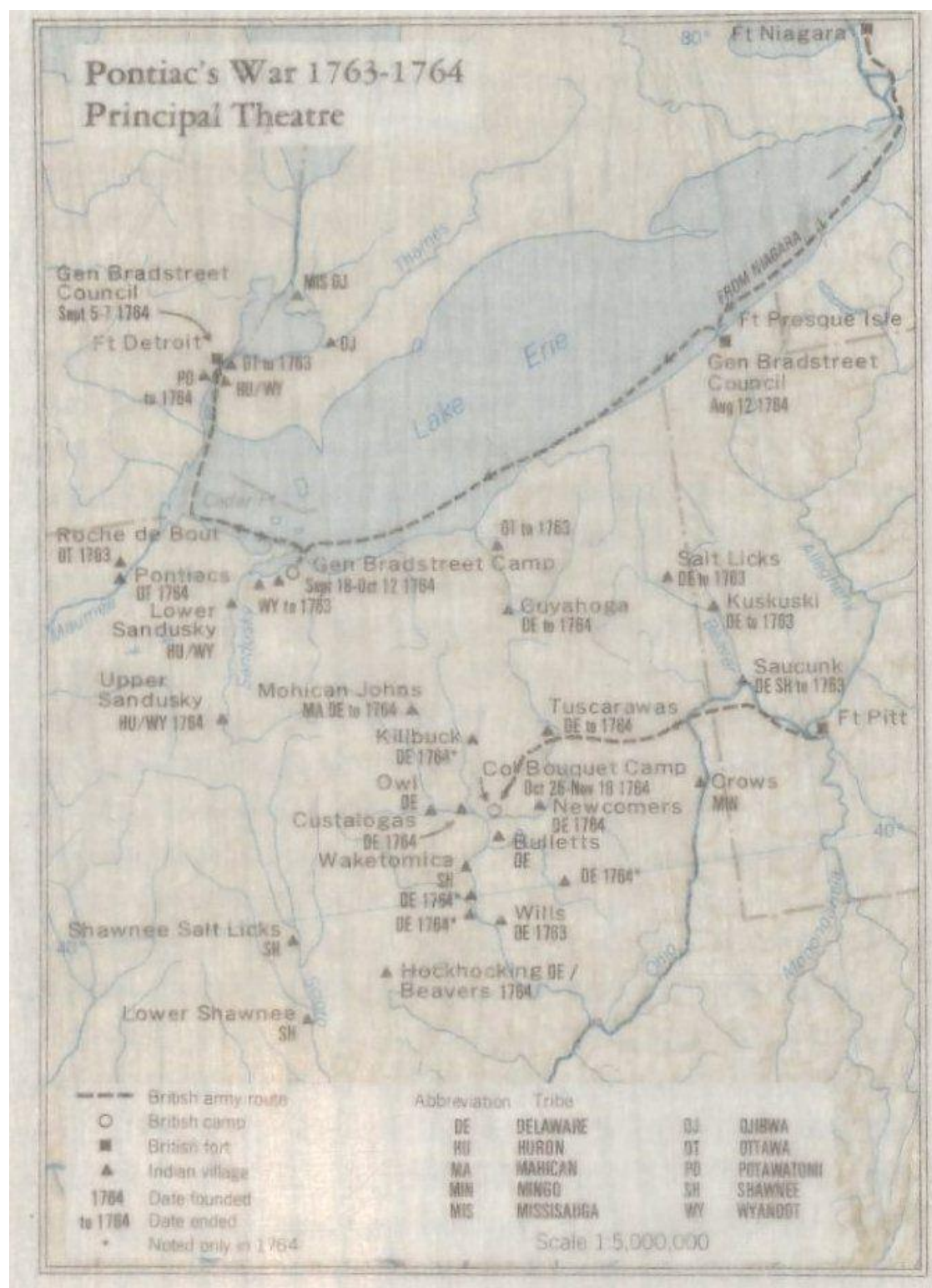
Kickapoo warriors provided major support in the north during Pontiac's siege of Fort Detroit. In the south, they were also instrumental in forcing British troops to evacuate Forts

Ouiatanon, Chartres, and Miami. In halting response, British authorities decided to attempt conciliation with the Kickapoo and other Algonquian tribes instead of attempting the military conquest of Illinois Country. During the summer of 1764, the Kickapoo were prominent in rejecting the British emissary and in blocking British occupation of the old Algonquian range in the west, during which 2,000 British soldiers, traders, and settlers reportedly were killed or captured and many more were rendered destitute and plundered.

But the tide turned in the conflict in 1765 and British soldiers recaptured all of the military outposts they had lost earlier during Pontiac's Rebellion except in Illinois Country, in no small part because of cunning Kickapoo resistance. For instance, Kickapoo warriors in June surprised and ambushed a special British conciliation mission dispatched from Pittsburgh to Illinois Country by Sir William Johnson at the mouth of the Wabash River. The Kickapoo took George Croghan, the leading British negotiator, and other British officials hostage, held them captive for thirty-five days at the lodge of Kickapoo War Chief Wohpesah, and used them as pawns to strengthen their bargaining position with British colonial authorities. Ultimately, Chief Pontiac secured the hostages' release by the Kickapoo on July 12th. This incident served as an important catalyst for an overarching diplomatic rapprochement between British negotiators and an array of intertribal leaders who had been fighting against the British military. Hence, the stage was set for a new era in Kickapoo–British relations.



Indian resistance to British encroachment across the Great Lakes region. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 49.



Eastern front of Pontiac's War Against British infiltration. Source: Atlas of Great Lakes Indian History, Helen Hornbeck Tanner, p. 50.

On August 17 and 25, 1765, George Croghan convened two grand councils of intertribal delegates at Fort Chartres and Fort Detroit, respectively. Kickapoo tribal leaders were present at both and they and their tribal allies agreed with the following terms to achieve peace with the British colonial authorities in Illinois Country:

- Tribes must acknowledge the British King as their Father;
- Open communication was to be maintained among Pittsburgh, Detroit, and Illinois Country;
- Tribes were to surrender all captives and stolen horses;
- Indian title to Illinois Country was recognized;⁶²
- British authorities acknowledged they were tenants effectively and each tribe was to receive an annual rental in presents in exchange for British use of the land.

Soon thereafter, Kickapoo tribal leaders also agreed to lead their people into three separate and distinct communities: (1) Serena and his band moved west of the Mississippi River into Spanish Louisiana; (2) a different prairie band centered on the lower Illinois River; and (3) yet another band settled along the Vermilion and Wabash rivers.

Nevertheless, the Kickapoo maintained a united tribal council and visited each other's encampments regularly.

The ensuing years brought a slow, steady improvement in Kickapoo-British ties, especially after the outbreak of the American Revolutionary War, as the Kickapoo turned toward the British authorities for help in resisting the growing displacement threat and encroachment

⁶² This meant that Native Americans had the right to use the tribal lands they customarily inhabited, but they did not have permanent, legally enforceable ownership of those lands that had to be recognized by the British colonial authorities.

upon the Algonquian range from deceitful American colonial politicians, land speculators, and settlers.

Tragically, in 1769, Chief Pontiac of the Ottawa tribe, who had led arguably the most effective insurgent Native American intertribal military campaign against the forces of European colonization east of the Mississippi River up to that point in time, was murdered near St. Louis by what is widely believed to have been a Cahokia/Kaskaskia Indian of the Illinois/Illiniwek tribes. That assassination triggered an even stronger Kickapoo assault on what remained of the Illinois/Illiniwek tribes because the Kickapoo were in the inner circle of Chief Pontiac's supporters and remained prominent among his most loyal intertribal warriors. They sought vengeance and to destroy all of the Illinois/Illiniwek tribes throughout Illinois Country once and for all.

By 1771, persistent and opportunistic Kickapoo stragglers shifted from sporadic guerilla raids on British targets toward cultivating closer relations with Spanish authorities in their newly acquired trans-Mississippi domain. France had ceded the Louisiana Territory to Spain in November 1762, before reaching a final peace treaty with the victorious British authorities.

[SIDEBAR: Chief Pontiac's Avengers]

As a result of the French defeat by the British in the Seven Years' War (i.e., the French and Indian War in the North American theater) and under the terms of the 1763 Treaty of Paris, French territorial claims from the Great Lakes region north into Canada and south to the Gulf of Mexico were ceded to the British Empire. Practically speaking, this meant those tribes inhabiting lands east of the Mississippi River had suddenly become subject solely to British colonial power.

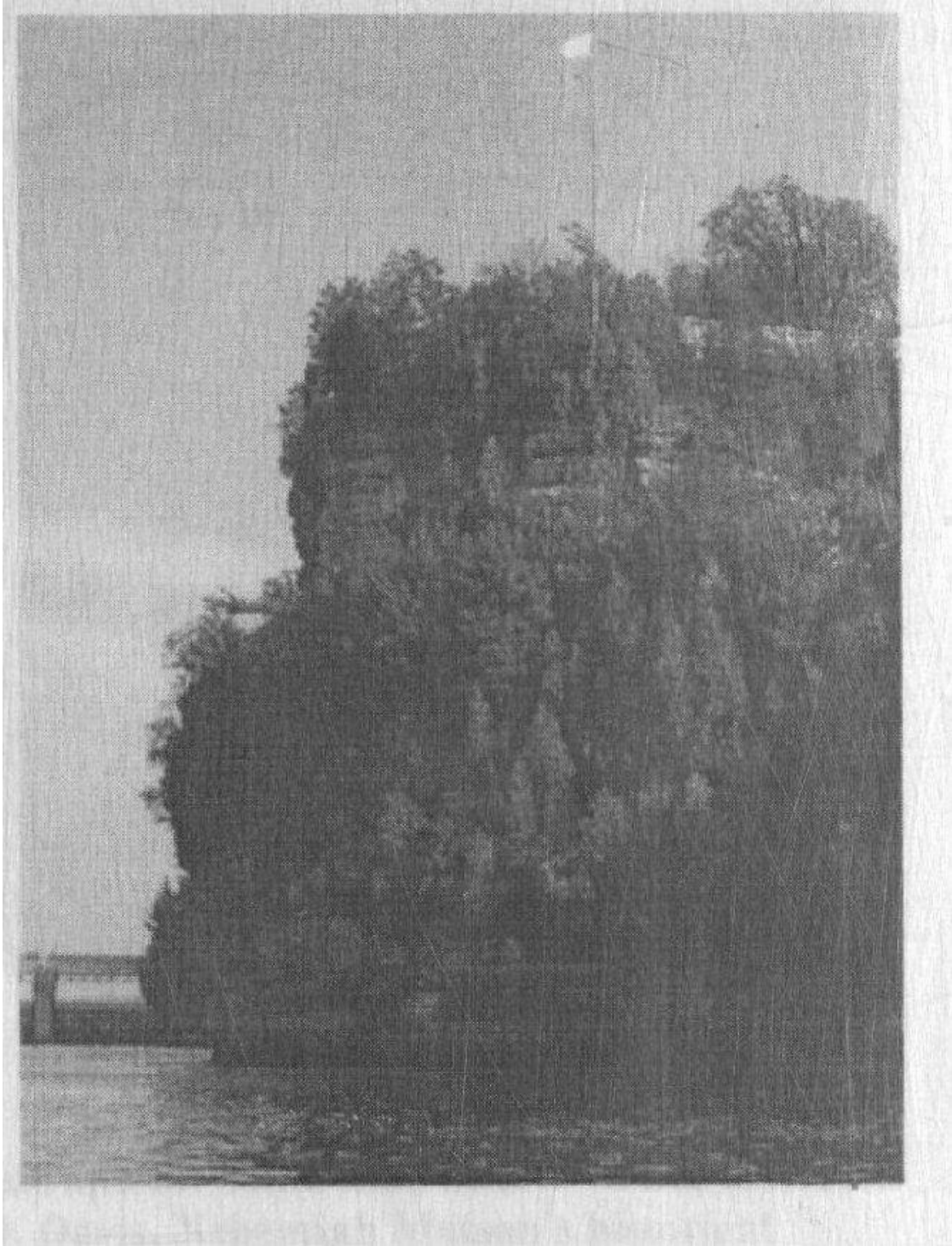
Pontiac, an influential Ottawa chief, felt utterly betrayed by his erstwhile French allies and refused to passively accept British territorial claims to what he considered Indian lands. He organized a pan-Indian rebellion against British colonial forts, which stretched from Fort Pitt/Pennsylvania in the east to Fort Detroit/Michigan in the north to Fort Charles/ Illinois Country in the southwest.⁶³

The Kickapoo were staunch allies of Chief Pontiac and Kickapoo warriors ranged far and wide in Indian attacks against British colonial outposts and settlements between 1763 and 1765. Pontiac's rebellion was put down by superior British firepower, but Chief Pontiac remained an esteemed leader among the Kickapoo and other tribes, especially because he refused to acknowledge that the French officials had any ownership of tribal lands or corresponding authority to transfer any Indian territory to the British.

Consequently, when Pontiac was murdered near St. Louis in 1769 and his assassin was identified as a member of the Kaskaskia tribe within the Illinois Indian Confederacy (longstanding French allies), the Kickapoo vowed all-out warfare and total extermination of the Illinois tribes. They were prominent among the tribes who surrounded and besieged many Illinois warriors and their families later in 1769 on what became known as Starved Rock on the Illinois River located approximately fifty miles southwest of Chicago.⁶⁴

⁶³ Helen Hornbeck Tanner, *Atlas of Great Lakes Indian History* (Norman: University of Oklahoma, 1987), 48-53.

⁶⁴ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman: University of Oklahoma, 1963), 31.



*Steep bluff and overlook on the Illinois River at Starved Rock State Park near Utica, Illinois.
Source: <https://www.dnr.illinois.gov/Parks/Pages/StarvedRock.aspx>.*

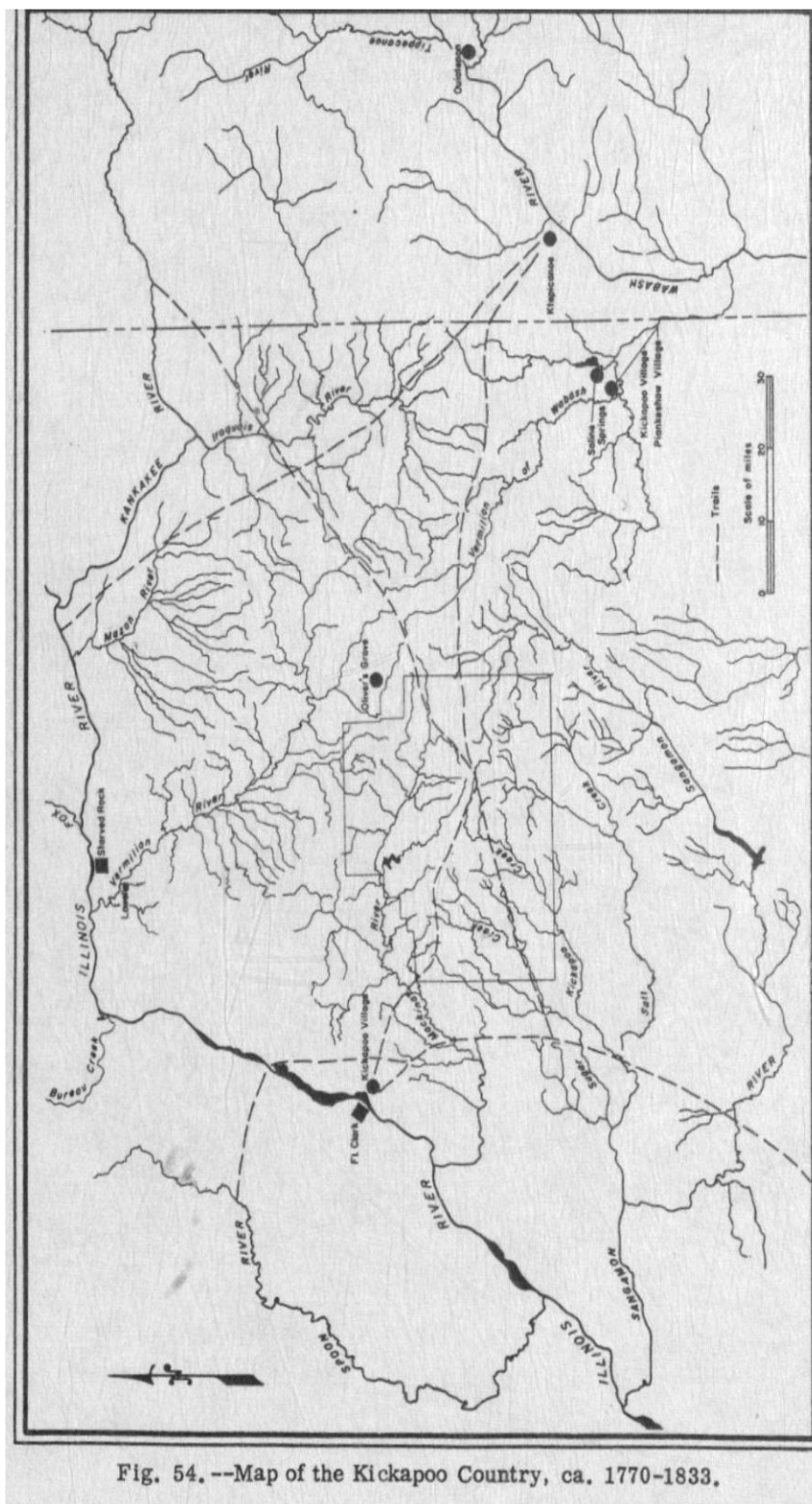


Fig. 54. --Map of the Kickapoo Country, ca. 1770-1833.

Locating the Grand Village of the Kickapoo and Associated Fort in the late 18th to early 19th centuries near present-day Leroy, Illinois. Source: "The Grand Village and Associated Fort in the Illinois Wilderness," William Brigham, p. 92.

PART III

THE LONG AND WINDING ROAD

CHAPTER 9

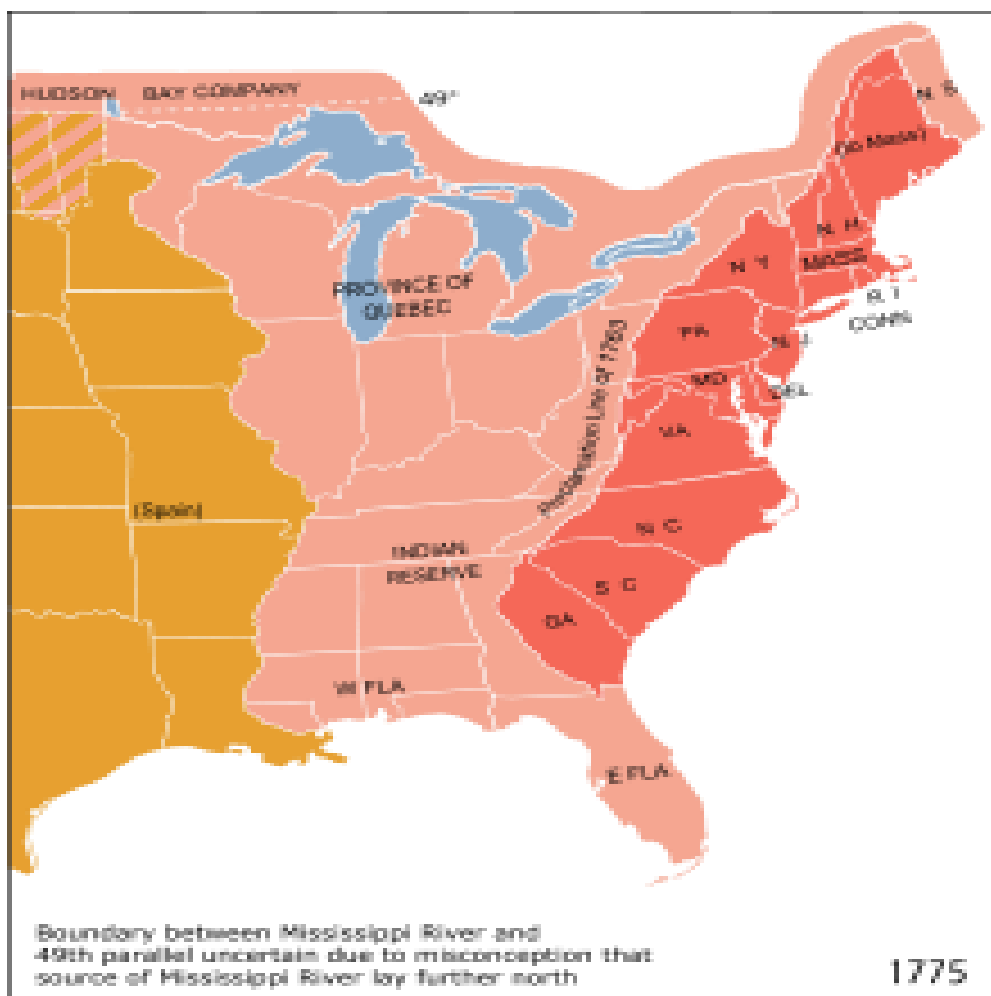
FROM BRITISH COLONIALIZATION TO RECKONING WITH NEWLY INDEPENDENT U.S.

On October 7, 1763, at the end of the Seven Years' War, a royal proclamation was issued by King George III forbidding colonists from settling west of the Appalachian Mountains. The proclamation voided the prior corresponding land grants that had been given to colonists who had fought for the British Crown against the French interests in North America. Colonial frontier settlers were ordered to relocate. All private citizens were flatly prohibited from buying land from any Native American tribal leaders or making any agreements with them. Only officially approved traders were authorized to conduct business with the Indians. Also, gift giving, which had also been a common custom between French authorities and tribal leaders, was curtailed to much dismay within tribal communities.

Although the proclamation technically has never been supplanted and is still of some legal importance in some parts of Canada, it did very little, practically speaking, to discourage relentless westward settlement. In fact, several prominent land speculators (including George Washington in Virginia) did not take it seriously from an enforcement perspective and the widespread popular resentment helped stoke anti-crown and revolutionary sentiments throughout the original thirteen colonies.

The Proclamation of 1763 also sought to establish new colonial governments in Quebec, Granada, and East and West Florida, with a view to reasserting tighter Crown control over the governance and administration of these newly acquired territories. Furthermore, British colonial authorities looked to curry favor with the recalcitrant tribes, who were particularly fearful about losing their land. The overarching policy goal was to prevent costly, destabilizing hostilities like Pontiac's War in the future.

The proclamation line was designed to provide clearer territorial boundary lines between Indian Country west of the Appalachian Mountains and the colonial settlements to the east. ([See corresponding map below](#)) In 1768, the separating proclamation line was moved further westward by the Crown following the Treaty of Fort Stanwix. Pursuant to that treaty's provisions, additional tribal lands were ceded. They eventually became the present-day states of New York, Tennessee, and Kentucky.



A portion of eastern North America affected by the 1763 proclamation line. It demarcated the border between the red and the pink areas. Source: Royal Proclamation of 1763, wikipedia.org.

Once Pontiac's Rebellion was quelled and as the 1763 Proclamation became increasingly feckless, Kickapoo interest in friendly relations with the British waned steadily. By 1767,

colonial authorities were receiving a steady stream of reports of mounting Kickapoo unrest from Illinois Country, including accounts of successful raids south of the Ohio River against the Chickasaws, who had been tribal allies of the British for at least twenty-five years.⁶⁵

Several additional factors increasingly undermined Kickapoo–British relations. In 1769, the Kickapoo blamed the British for not preventing Chief Pontiac’s murder and once the tribe vanquished the few remaining Illiniwek/Illinois tribal defenders on the prairie, they trained their sights even more on British authorities, soldiers, and settlers. In response, British agents secretly attempted to persuade Chickasaw, Osage, and Arkansas warriors to raid the Kickapoo from the south. French settlers remaining in Illinois Country spread anti-British rumors and misled the Kickapoo with false reports about growing numbers of French soldiers being amassed in New Orleans and Quebec to purportedly return to the battlefield and reoccupy the forts in the area.

Spanish authorities just across the Mississippi River also sought to limit British influence in Illinois Country. Antonio de Ulloa, the Spanish Governor of Louisiana, tried to bring as many recalcitrant tribes as possible under his influence. He generously gave trade goods to Kickapoo who were visiting St. Louis at that time.⁶⁶

[SIDEBAR: The Greatest Land Swindle in U.S. History: The Court Case of Johnson

V. Mcintosh/

Arguably, the greatest land swindle in U.S. history played out along the banks of the Illinois and Wabash rivers. By waging relentless warfare southward across the prairie against the tribes of the Illinois/Illiniwek Confederacy, the Kickapoo unwittingly and indirectly cleared the way for the subsequent systematic dispossession of Native American tribes from their

⁶⁵ R. David Edmunds, “A History of the Kickapoo Indians in Illinois from 1750-1834,” M.A. thesis (Bloomington-Normal, Illinois: Illinois State University, 1966), 27.

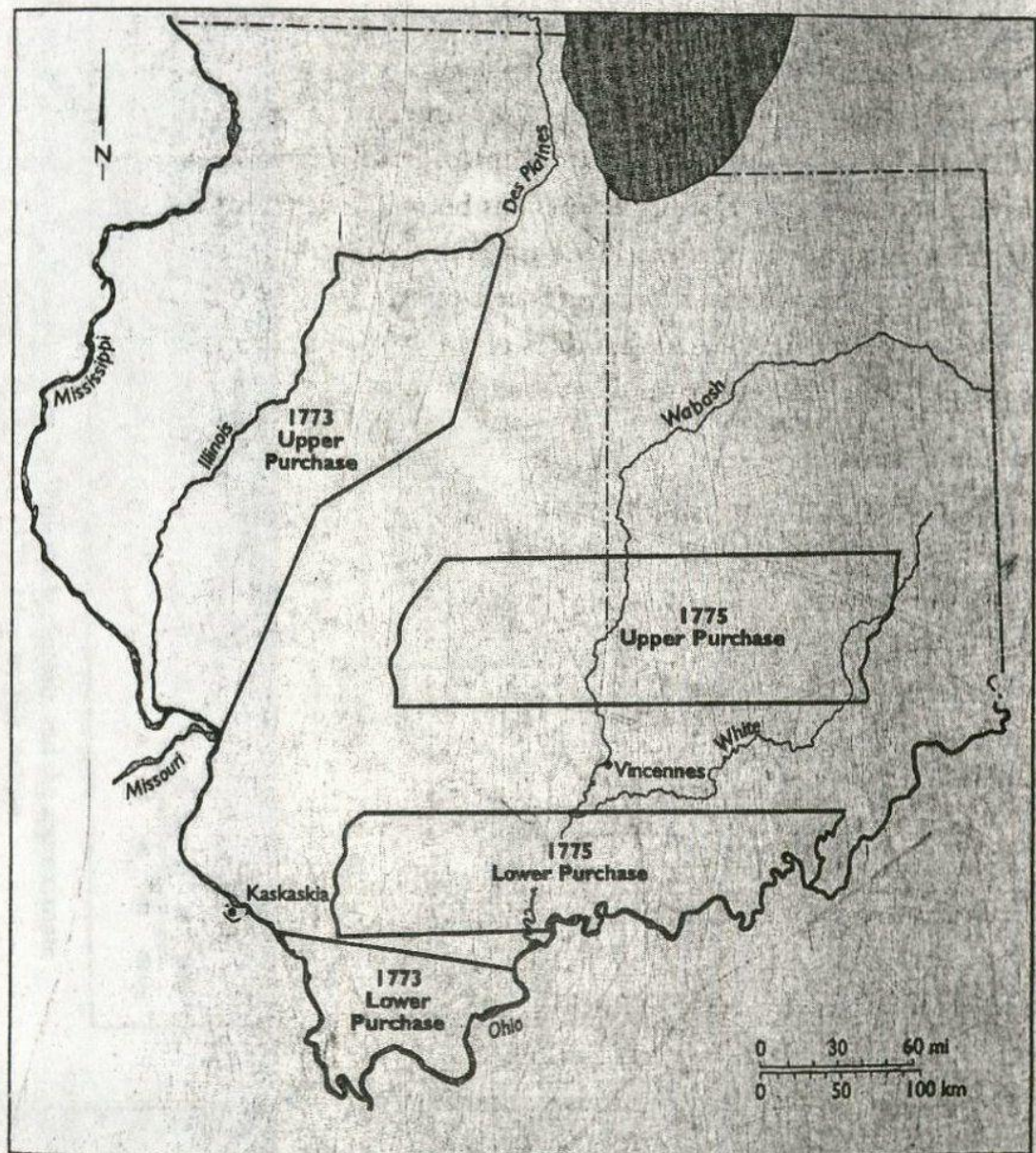
⁶⁶ Ibid., 30.

traditional lands across North America. Besieged tribal leaders of the Illinois/Illiniwek Confederacy and their Piankeshaw counterparts in the Miami Confederacy had experienced the near annihilation of their tribespeople by the early 1770s and they were induced to sell lands that they had previously inhabited along the Illinois and Wabash rivers to enterprising colonial land speculators from the Eastern Seaboard.

Ultimately, those groundbreaking private land deals, in contravention of the Royal Proclamation of 1763, have haunted all Native Americans from 1773 to this very day. We will never know whether the surviving Illinois/Illiniwek and Piankeshaw tribal leaders were motivated to enter into those fateful private land deals by desperation, vengeance, or some combination thereof.⁶⁷ (See maps below)

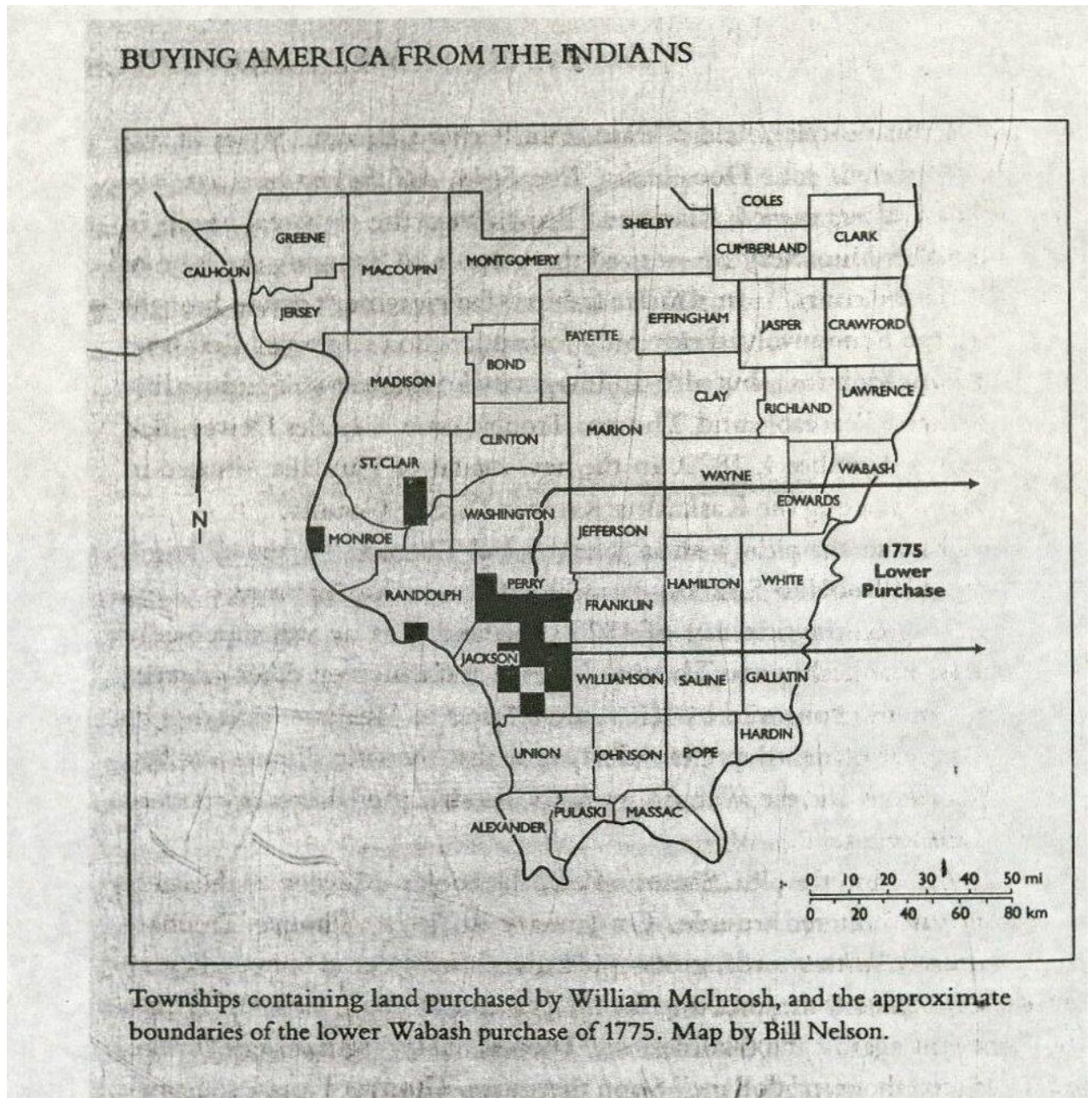
⁶⁷ Blake A. Watson, *Buying America From the Indians: Johnson v. McIntosh and the History of Native Land Right* (Norman: University of Oklahoma Press, 2012), 91 and 258.

THE PURCHASE OF 1775 AND REVOLUTION



The Illinois and Wabash purchases of 1773 and 1775. Map by Bill Nelson.

Controversial land sales by Illiniwek tribes to colonial land speculators, which led, in turn, to the monumental land swindle of continental proportions. Source: Buying America From the Indians: Johnson v. McIntosh and the History of Native Land Rights, Blake A. Watson, p. 91.



Further undermining Native American land tenure in North America. Source: Buying America From the Indians: Johnson v. McIntosh and the History of Native Land Rights, Blake A. Watson, p. 258.

In addition to the British Crown, all three branches of the federal government in the U.S. continue to bear heavy responsibility over the course of mainstream history for the alienation,

dispossession, and displacement of the vast majority of Native Americans from their ancestral homelands.

More specifically, the U.S. Supreme Court's unanimous ruling in the seminal case of *Johnson v. McIntosh* in 1823 and Chief Justice John Marshall's opinion undoubtedly was a tipping point with regard to land policy. Its far-reaching impact was grounded in the treacherous Doctrine of Discovery and still governs today.

Before that fateful ruling, possessory, ownership, and dispositive rights in Native lands could be viewed legally as aggregated or diffused, leading to any one of four competing conceptualizations of Indigenous land rights in the U.S.:

1. Indians own the lands they occupy and are free to sell their lands to whomsoever they please.
2. Indians own the lands they occupy, but they are not free to sell their lands to whomsoever they please. The holder of the preemption right has the exclusive right to acquire the property rights of the Indians.
3. Indians possess the land they occupy, but do not own the lands they occupy. The United States (or one of the original colonies) owns the land subject to the Native right of occupation. As owner, the United States (or one of the original colonies) can transfer ownership "notwithstanding the non-extinguishment of the Indian title." Once the "Indian title" is extinguished, the owner of the land also has the right of possession.
4. Indians have no property rights. The United States (or one of the original colonies) owns the land and the possessory right. The Native occupants are, in

effect, trespassers. When payments are made to tribes, it is not done to acquire property rights, but rather to expedite the removal of the Indians.⁶⁸

The land dispute before the U.S. Supreme Court in 1823 called the crucial question regarding “the power of Indians to give, and of private individuals—[non-Indians]—to receive, a title, which cannot be sustained in the Courts of this country.”⁶⁹ The foundational importance of what was legally determined about the Illinois and Wabash Land Company private land purchases in 1773 from the tribes of the Illinois/Illiniwek Confederacy and in 1775 from the Piankeshaw Indians of the Miami Confederacy, henceforth, to real property law in the U.S. and far beyond cannot be overstated. While this ruling has been denounced as “conquest by judicial fiat” and an extra-constitutional fiction developed “to rationalize the subjugation of the Indian nations,” its practical effects and consequences are undiminished.

Moreover, this case and ruling continues to help underpin core principles of federal Indian law.⁷⁰ Most importantly, for purposes of this applied research, this reigning opinion has positioned the U.S. government to be accountable for the wanton dispossession of Indian lands and the resulting displacement of American Indians, while essentially dissociating and absolving Euro-American colonizers, settlers, and their descendants, as a matter of law, from individual accountability and personal feelings of guilt for stripping Indians of most of their land one way or another.

Simply stated, the so-called “Indian problem” became Uncle Sam’s to deal with as a matter of public policy, and not a practical, conscious concern of individual non-Indians.

⁶⁸ Ibid., 274.

⁶⁹ David H. Getches et. al., *Cases and Materials on Federal Indian Law* (St. Paul: West Publishing Company, 2011), 65.

⁷⁰ Watson, *Buying America*, preface, xiv.

The twists and turns of federal Indian policy since the *Johnson v. McIntosh* ruling, in combination with the subsequent U.S. Supreme Court rulings in *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832)—commonly referred to together as the Marshall Trilogy—can therefore be viewed generally as vacillating attempts to cope with Indigenous trauma and repressed non-Indigenous guilt ever since.

The ensuing Removal Era in Native American history (roughly 1823-1853) was rationalized and justified on the presumption that there was ample unsettled land west of the Mississippi River for displaced Indians from the East in addition to whatever population of Indians was already living there.

Onset of the American Revolutionary War

When the American Revolutionary War broke out in 1775, both the British and the American colonists set out to woo and secure the uncertain loyalties of the tribes in Illinois Country. According to Gibson, British strategy had three goals in mind: (1) build a defense on the Ohio River against any colonial adventure in the Northwest; (2) muster a Native force sufficient to turn back a possible Spanish offensive from upper Louisiana; and (3) organize raiding parties to terrorize colonial frontier settlements.⁷¹ Meanwhile, the colonial strategy was somewhat different. According to American frontier historian Ray Allen Billington, “The Americans, who would have welcomed active aid against their enemies’ forts, were wise enough to see that this was unobtainable. Instead, the three Indian Commissioners appointed by the Continental Congress in July 1775, concentrated on keeping the tribes neutral.”⁷²

Kickapoo tribal leaders were understandably very confused, diplomatically speaking, and found it very difficult to navigate the complex crosscurrents and ever-changing dynamics playing

⁷¹ Gibson, *The Kickapoo*, 33.

⁷² Ray Allen Billington, *Westward Expansion* (New York: The Macmillan Company, 1960), 175.

out among the self-serving British, Spanish, and colonial powers, as well as the lingering French influence. In the spring of 1776, some Kickapoo joined with the Shawnee in raids across the Ohio River into Kentucky with the Tecumseh reportedly among the participants.⁷³ Nevertheless, the majority of the Kickapoo didn't take sides. One tribal leader among the Prairie Kickapoo band, Fair Weather, ignored the appeals of British agents and refused to dispatch any warriors to Detroit because "he had been in St. Louis and the Spanish had promised him many gifts" to remain disengaged. An official Spanish report dated 1777 mentioned that the Prairie Kickapoo had 300 warriors and their principal chief was Pacana. It also stated that these Kickapoo made a favorable impression in St. Louis.⁷⁴

Undeterred, the British continued their efforts to sway the Kickapoo and bring them under their influence. In 1778, Henry Hamilton, the British military commander based in Detroit, concluded that winning the allegiance of the Kickapoo was crucial to securing control of all of the Wabash River Valley. He became known notoriously as the "Hairbuyer" among the colonists:

Branded as the "Hairbuyer," and hated throughout the frontier, it was useless for Hamilton to declare that he did not pay Indians for American scalps, but for prisoners of war. If, as the Indians claimed, the captured had tried to escape while being brought in and were killed, their scalps had to be accepted as evidence. Hamilton, following orders from London and using funds forwarded from Quebec, paid off though he knew he was often cheated by the substitution of French, Spanish, and even British scalps for American.⁷⁵

Hamilton convened a conference in Detroit in mid-1778 and persuaded a sizeable Kickapoo delegation of four chiefs and thirty warriors to attend along with some Potawatomi, Wea, and Mascoutin. Peace medals and trade goods were distributed to curry favor and, in

⁷³ Edmunds, "A History," 31-32.

⁷⁴ Ibid., 32.

⁷⁵ Fairfax Downey, *Indian Wars of the U.S. Army* (Derby, Connecticut: Monarch Books, 1964), 48.

exchange, the leading Kickapoo chief, Mahinamba, gave Hamilton a pipe pledging loyalty to the British cause.

Furthermore, all the tribal leaders were urged not to listen to any Spanish officials or Delaware tribal leaders, who were deemed to side with the colonists. Most importantly, Hamilton underscored, “The rebels, not contented to act against their sovereign, have also acted against the Indian nations and want to dispossess them of their lands. The King, always attentive to his dutiful Children, ordered the axe to be put into the hands of his Indian children in order to drive the rebels from the land, while his Ships of War and Armies cleared them from the sea. ... The English forces have taken New York, Boston, and Philadelphia, and driven the rebels wherever they dare force them by land and sea, and I believe in time the King will bring their necks under his feet.”⁷⁶

Despite the Kickapoo pledge of loyalty, there is no evidence that they carried out new attacks in the Wabash River area on their own against the colonists in follow-up. To the contrary, and to Hamilton’s great dismay, he learned that the Wabash Kickapoo in September 1777, had previously welcomed colonial agents accompanied by some of their Indian allies from the Illinois River region into their encampment. The colonial delegation disavowed any intention of taking the Indians’ land, reassuring them they only wanted to pass through the Indian territory on their way to attack the British outpost at Fort Detroit. But the colonists also misled the Kickapoo into believing that French soldiers were returning imminently to help the colonial cause, while also pointing out ominously that, “We desire you to leave a very wide road for us, as we are many in number and love to have room enough for our march, for in swinging our arms as we walk, we may chance to hurt some of your young people with swords.”⁷⁷

⁷⁶ Edmunds, “A History,” 35.

⁷⁷ Ibid., 38.

In response, Hamilton led a British military expedition down the Wabash River in early December 1778, inducing some Kickapoo warriors to join his ranks after delivering a tongue-lashing during his brief stay in the tribal encampment located southwest of Ouiatanon (present-day Lafayette, Indiana). The British capped their military expedition on December 17, 1778, with the occupation of Fort Vincennes. The Kickapoo promptly formed a defensive cordon surrounding the outpost. Writing to his military superior, Sir Frederick Haldimand, the English Governor General of Canada, Hamilton proudly claimed victory and soon thereafter reported, “This day a party of Ouiquaboes (Kickapoo) went to war toward Kaskasquias. This makes me easy as to the Indians of this river, who will follow implicitly the example of the Ouiquaboes, the most warlike and cruel of them all.”⁷⁸

Meanwhile, it quickly became apparent that Hamilton should not have been so cocky. Unbeknownst to him, General George Rogers Clark and Patrick Henry were lobbying the Virginia Assembly ostensibly to fund military operations to defend besieged Kentucky, when in fact, Clark was planning an invasion of Illinois Country. Clark was convinced Illinois could be used as a base to capture Fort Detroit from the British. He argued, “Even if Detroit remained unattainable, possession of the Illinois Country would be valuable for it would give the Americans control of the Ohio, open a communication with the Spanish at St. Louis, close the Mississippi to the British, deepen the ardor of the Indians, and increase American opportunities to trade.”⁷⁹ It was also true that Clark held extensive property in Kentucky and that Virginians were to extend their territorial claim throughout the northwest.

Colonial spies reported that British defenses were comparatively weak at Fort Kaskaskia, just outside St. Louis. With that target in mind, General Clark launched his western military

⁷⁸ Ibid., 37.

⁷⁹ Ibid., 39.

expedition in the early summer of 1778. He and his backwoodsmen floated down the Ohio River and landed at Fort Massac on June 26, 1778. Leading 175 militiamen, Clark marched westward to Fort Kaskaskia, capturing it by surprise on the night of July 4 without firing weapons. The next day, Captain Joseph Bowman and his company captured Fort Cahokia for the colonists in a similar fashion, without firing a shot. Then, Clark's emissaries fanned out over southern Illinois Country. Impressed by Clark's bold actions, the Prairie Kickapoo band provided scouts for his militiamen and even dispatched war parties to the lower Ohio River to safeguard against raids by pro-British tribes to the south.⁸⁰

Having assumed marginal control of Illinois Country, Clark sought to win the neutrality of as many tribes in the region as possible. He convened a conference to this end and many tribesmen from the Great Lakes participated. The Wabash Kickapoo were a priority in his outreach. Via a courier named Captain Helm, Clark urged this band of Kickapoo to cease their hostilities, while at the same time, he warned them that if they continued to resist, they would see their British leaders "given to the dogs to eat." In reply, the tribal leaders answered that "The Americans must be warriors and no deceivers, or they would never have spoken as they did; and they liked such people, and that the English [were] liars and they would listen to them no longer; that by what they had heard from the big knives, the Indians had as great a right to fight the English as they had."⁸¹

Clark tried repeatedly to explain the war to the Kickapoo, in order to bind them reliably to the colonial fight for independence. He stressed that the ancestors of the colonists had originally left England in order to escape English persecution and that the English king was

⁸⁰ Gibson, *The Kickapoos*, 34.

⁸¹ Edmunds, "A History," 41.

trying to further persecute the “Long Knives” in their new home. He warned that if the English were successful in controlling the colonists, “they would make the Indians pay likewise.”⁸²

In fact, Clark had nowhere near the 750 soldiers that he estimated were needed to confidently defend the military outposts he had captured in the Illinois Country and his request for reinforcements went largely unheeded.⁸³ Nevertheless, still uncertain of the loyalty of the Wabash tribes, he took a calculated risk, pivoted quickly, and marched most of his small militia eastward. His gamble paid off in August, when his soldiers launched another surprise attack and forced the British garrison at Fort Vincennes along the Wabash River to surrender. Several additional villages and British military outposts in the area were subsequently captured after most of the French-speaking and Indian inhabitants refused to take up arms on behalf of the British.

But this colonial victory was short-lived. Hamilton counter attacked with a small force in December 1778, and recaptured the garrison at Fort Vincennes, which the British called Fort Sackville. He wasted no time in finding parties of Indian warriors to resume raids in Kentucky and Fort Kaskaskia. The Kickapoo were among a raiding party who half-heartedly attempted to capture General Clark as he made his way to Fort Cahokia in January 1779.⁸⁴ Despite their raid, Hamilton remained fundamentally doubtful of Kickapoo allegiance, reporting on January 27, 1779, that the Kickapoo “Are expected to act only from the motive of fear of the other confederate Indians, not having the spirit of either the Southern or Northern Indians. Their

⁸² Letter from Clark to Mason, November 19, 1779, William English, *Conquest of the Country Northwest of the Ohio* (Indianapolis: Bowen Merrill Co., 1895), 420.

⁸³ Louise Kellogg, *Frontier Advance on the Upper Ohio, 1778-1779* (Madison: State Historical Society of Wisconsin, 1916), 171.

⁸⁴ Edmunds, “A History,” 42.

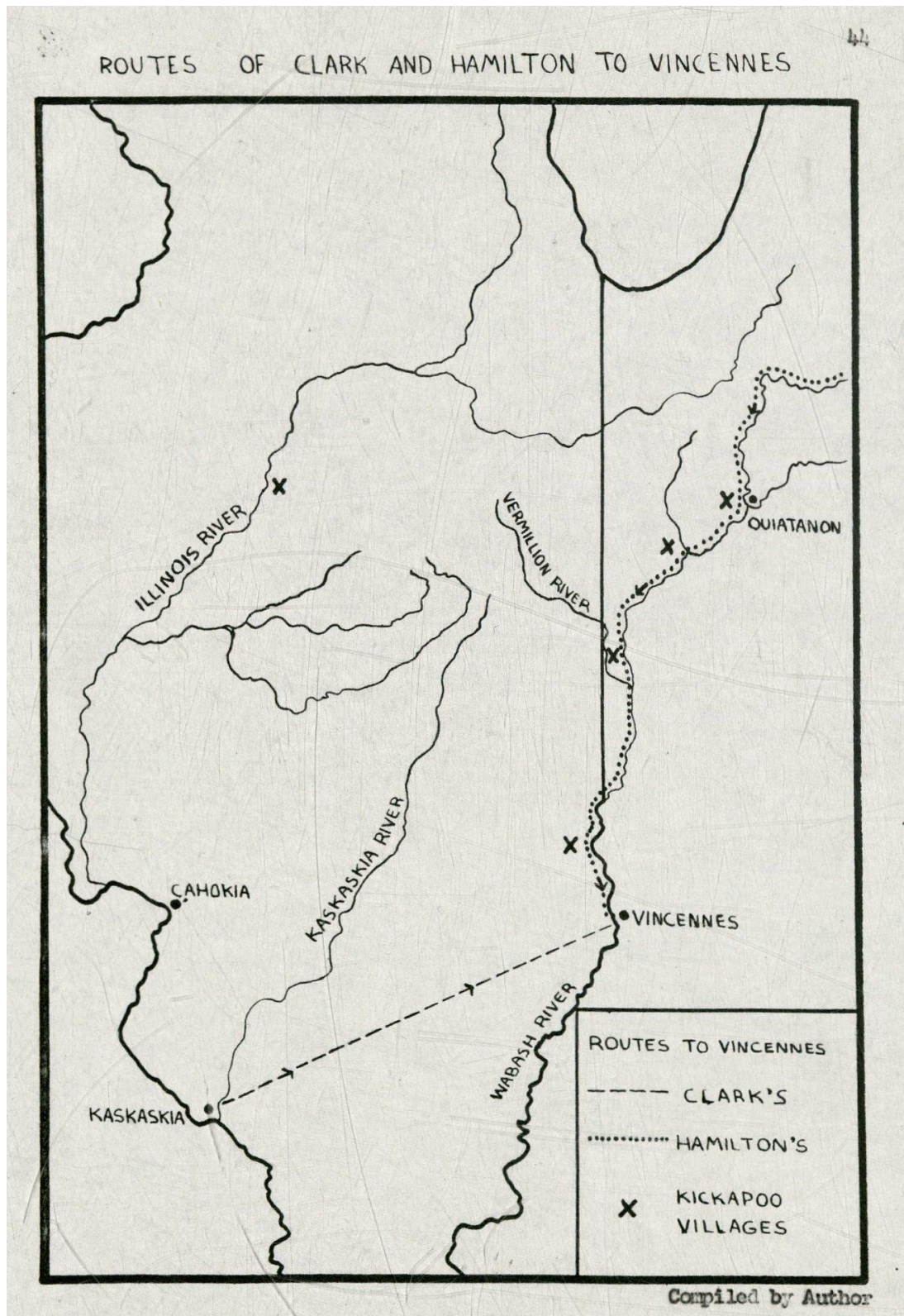
situation makes them apprehensive of another visit from the Virginians. Nothing but a force sufficient to protect them will engage them to act steadily.”⁸⁵

Despite the military setback, and prior to renewing his march on Fort Detroit planned for 1779, Clark used his own resources and borrowed from his friends to continue his campaign after the initial appropriation from the Virginia Assembly had been depleted. He re-enlisted some of his troops and recruited additional militiamen to join him.

Meanwhile, Hamilton bided his time going into the spring of 1779 before dispatching British forces westward to conduct a military campaign to retake the forts at Kaskaskia and Cahokia. But General Clark was more aggressive and wasted no time acting on his plan to recapture Fort Sackville/Vincennes. He left Fort Kaskaskia on February 6, 1779, with 175 soldiers at most, embarking on a grueling overland trek eastward across Illinois Country, enduring melting snow, ice, and cold rain along the journey. They arrived at Fort Sackville/Vincennes on February 23, and promptly launched a surprise attack, culminating in Hamilton’s surrender of the entire British garrison once again on February 25. (See map below)⁸⁶

⁸⁵ Letter from Hamilton to Haldimand, Vincennes, Hiram Beckwith, *The Illinois and Indiana Indians* (Chicago: Fergus Printing Co., 1884), 393.

⁸⁶ Edmunds, “A History,” 46.



The route Clark and Hamilton took to Vincennes. Source: "A History of the Kickapoo Indians in Illinois from 1750-1834," p. 46.

Clark quickly appeared before the Kickapoo around Fort Vincennes and assured them that the colonists did not want their lands. He told them that if anyone tried to drive the Kickapoo off their lands, the offender would have to tomahawk Clark first and that the only reason for his military presence at Fort Vincennes was to drive out the British.⁸⁷ Soon thereafter, he reported to Thomas Jefferson, the Governor of Virginia:

The Kickapoos and Piankeshaws to the amount of one hundred were in town, immediately armed themselves in our favor, and marched to attack the fort. I thanked the chief for his intended service, told him the ill consequence of our people being mingled in the dark—that they lay in their quarters till light. He approved of it and sent off his troops, appeared to be much elevated himself, and staid with me giving all the information he could. I know him to be a friend.⁸⁸

The 1779 winter expedition was Clark's crowning military achievement and secured his reputation as a Revolutionary War hero. News of his daring victory along the Wabash River reached General George Washington, and his success was celebrated and was used to cultivate the alliance with France. General Washington recognized that Clark's remarkable achievement had been gained without support from the regular colonial army in men or funds. Virginia officials also capitalized on Clark's success, laying territorial claim to the Old Northwest, dubbing it Illinois County, Virginia.

As 1780 dawned, a Kickapoo request for more colonial soldiers to be posted along the Wabash River for their protection was turned down, but the colonial authorities had regained enough confidence and standing to dispatch warriors from the Wabash Kickapoo band to raid Chickasaw and Choctaw encampments across the Ohio River to counter unrest that those southern tribes continued to stir in Kentucky.⁸⁹

⁸⁷ English, *Conquest of North Country*, 445.

⁸⁸ *Ibid.*, 440.

⁸⁹ Edmunds, "A History," 45.

Meanwhile, to the north, in the Great Lakes region, British commanders continued to foment trouble with fresh plans to regain control of the Mississippi Valley from the Spanish. They were gaining support among the Sauk, Winnebago, Ottawa, and Sioux and some warriors of the Prairie Kickapoo band joined their ranks.

By way of background, Spain had entered the American Revolutionary War on the side of the colonists in 1779. In response, British military planners in London sought to wrest control of the Mississippi River corridor from both Spanish and colonial forces. Their plans included an expedition from West Florida to capture New Orleans and other Spanish targets to the south, while another expedition would descend from the north to secure control of targets in the Upper Mississippi region, including the frontier town of St. Louis—a French settlement in Spanish Louisiana that was founded on the west bank of the Mississippi River after the 1763 Treaty of Paris. But their plans for the expedition to be launched from West Florida never gained traction because Bernardo de Galvez, the Governor of Spanish Louisiana, moved first and rapidly gained control of British outposts on the Lower Mississippi and threatened action against West Florida's principal outposts of Mobile and Pensacola.

Undaunted, Emanuel Hesse, a former British militia commander and fur trader, led a small army that included warriors from multiple tribes, including Kickapoo, into the Battle of St. Louis. His small force was estimated to include two dozen fur traders and an estimated 750 to 1,000 Indians when it left Prairie du Chien in what was then Michigan Country on May 2, 1780. He attacked the town's defenses on the west side of the Mississippi River, which had been hardened by Fernando de Leyba, the Lt. Governor of Spanish Louisiana. A second concurrent attack was directed at Fort Cahokia, on the east side of the Mississippi River, which was occupied by colonial militiamen from Virginia.

Both attacks failed. The retreating Indians destroyed crops throughout the surrounding area and took captive civilians outside the protected area. Having failed in their efforts on the Spanish side of the river, the British essentially abandoned their Indian allies to fend for themselves and effectively decided not to pursue further attempts to gain control of the Mississippi River during the remainder of the war.

In retaliation for the British-inspired raid on St. Louis, a small military expedition of Spanish militia and Indian allies marched across Illinois Country during January 1781. They were bent upon attacking the British garrison at Fort St. Joseph in Michigan Country. They followed the course of river bottoms, using timber stands to protect them from a harsh winter. In February, they visited a Wabash Kickapoo encampment at the Vermilion River in present-day Vermilion County, Illinois, and sought to parley.

Negotiations broke down after two days and the Kickapoo drove them off.⁹⁰ The Spanish military expedition proceeded northward, pausing before they attacked the fort to promise the Potawatomi half of the anticipated bounty if the tribe would remain neutral.⁹¹ After the successful surprise attack, the Spanish colors were raised and the Spanish commander briefly claimed Fort St. Joseph and the St. Joseph River for Spain. His troops plundered the fort for one day, distributing the goods among friendly Indians before departing to return to St. Louis. The looting and destruction of goods held at Fort St. Joseph served to help dissuade the British from contemplating any renewed British attacks into Spanish territory.

Shifting loyalties were a hallmark of Kickapoo interaction with both the British and the colonists. But as the Revolutionary War came to a climax, the Kickapoo had fresh reasons for

⁹⁰ Ibid., 46.

⁹¹ Edward F. Butler, *Galvez/Spain—Our Forgotten Ally in the American Revolutionary War: A Concise Summary of Spain's Assistance* (San Antonio, Texas: Southwest Historical Press, 2014), 125.

distancing themselves from the colonists. They had extended protection from the remnants of the Illiniwek/Illinois tribes, who the Kickapoo had long sought to annihilate, and they had begun their withdrawal from Kaskaskia. In addition, the Kickapoo were concerned by the military expedition that British Captain Henry Bird had led into Kentucky in June 1780. Also, the colonists were aligned with the Spanish, who had alienated the Kickapoo during their march through their tribal hunting grounds and related skirmish with the Wabash Kickapoo in 1781. The Kickapoo were also steadily losing support among the French who remained in Illinois Country. By far, however, the leading cause of Kickapoo disillusionment was the continued westward movement of settlers into Kickapoo territory.⁹² Twenty families from Kentucky had followed Clark's army into Illinois Country during their initial march to Kaskaskia and, by 1781, more squatters had staked land claims around Fort Vincennes.⁹³ Not surprisingly, Kickapoo warriors had joined with Miami and Potawatomi counterparts and were again raiding against frontier settlers from Virginia and Kentucky in 1782.⁹⁴

When the Treaty of Paris was signed in 1783 ending the Revolutionary War and recognizing the independence of the former colonies, Kickapoo lands were awarded de facto to the United States. While Kickapoo tribal leaders neither signed nor approved of the treaty, they were present in Detroit along with many other tribal leaders in the northwest when American envoys arrived to offer fresh assurances of the justice and good will that the concerned Native Americans could now expect from the Americans going forward.⁹⁵

⁹² Edmunds, "A History, 47.

⁹³ Gibson, *The Kickapoos*, 39.

⁹⁴ Report of the Indian Council at Detroit in June 1783, Haldimand Papers, B-123, Michigan Historical Society, Great Lakes Indian Archives, Kickapoo File, 1781-1783, Bloomington, Indiana.

⁹⁵ Walter Mohr, *Federal Indian Relations: 1774-1788* (Philadelphia: University of Pennsylvania Press, 1933), 95.

CHAPTER 10

THE FINAL KICKAPOO STRUGGLE ON THE ALGONQUIAN RANGE

As the American Revolutionary War was coming to an end, the Kickapoo became increasingly disillusioned with the upstart colonists and their leaders. A growing tide of colonial settlers, spurred on with newly issued land warrants made as payment for military service, staked land claims in the wake of Clark's military victories around Vincennes. In response, the Kickapoo turned away from the "Long Knives," deciding instead to send tribal representatives to Detroit to seek British counsel, as did the Miami, Potawatomi, Wea, and other tribes. They pledged their loyalty anew to both British and Spanish authorities, serving two masters, but practically sharing one overriding policy goal: to stop the flood of American settlers pouring into their land.

The signing of the Treaty of Paris in 1783 brought a formal conclusion to the Revolutionary War (a war in which many of the tribes east of the Mississippi River were allied with the British) and secured American independence. It also marked the beginning of the final armed struggle of the Kickapoo for title and control of what had been known as the Algonquian Range, a struggle that continued for nearly 50 years from the end of the American Revolutionary War through the Black Hawk War (1783-1832). Off-and-on again warfare and treaty negotiating ensued and pitted numerous tribal nations of the Old Northwest, who were armed and encouraged by recalcitrant British agents, against newly emboldened American land speculators, politicians, soldiers, and permanent settlers.

No tribes were party to or signed the Treaty of Paris. In fact, the British authorities betrayed their Indian allies by formally recognizing U.S. sovereignty over all land east of the Mississippi River and south of the Great Lakes. Not surprisingly, most of the tribes in the

Northwest Territory (including the Kickapoo) categorically refused to recognize claims of the newly independent American government to their ancestral homelands located northwest of the Ohio River.

De facto, U.S. government authorities deemed all the tribes in the region to be defeated powers, as a consequence of the American victory in the Revolutionary War. Saddled with sizeable war debt and unable to impose a nationwide tax under the existing Articles of Confederation, the federal authorities planned to raise revenue through the systematic surveying and sale of land tracts to speculators and settlers across the Northwest Territory. However, that plan could not be implemented, practicality speaking, without the removal of the tribes and non-Native land squatters in the region.

As the intentions of the federal government became clearer, a loose Algonquian confederacy, with nominal Kickapoo leadership, was organized in 1784 with British support fueled by on-going economic, trade, and geopolitical interests. Tensions rose on the frontier, the die was cast, and a new cycle of violence was unleashed during which an estimated 1,500 American settlers were killed on the frontier in Kentucky and beyond, on both sides of the Ohio River, by 1790. These deaths were accompanied by extensive property damage and livestock losses in conjunction with incessant, small-scale Indian raids against individual families and small settlements. When British agents stepped up their intrigue, arms, and presents to the Kickapoo and other tribes in 1790 with a view to further hamper American settlement, General Arthur St. Clair, Governor of the Northwest Territory, dispatched Antoine Gamelin as his negotiator on a diplomatic mission to council with Kickapoo tribal leaders, hoping to peel them off from British designs to possibly carve out a neutral Indian nation of sorts to serve as a buffer between the U.S. and Canada. But that diplomatic foray foundered and St. Clair subsequently

shifted his attention to the planning of a military offensive into the heart of the Northwest Territory. The Kickapoo and Miami camps along the Wabash River were among his principal targets.

Between 1790 and 1794, President George Washington ordered three military offensives in the Northwest Territory against tribes in the region, including the Kickapoo encamped along the Wabash River primarily.

First, Brigadier General Josiah Harmar led an estimated force of 1,500 army regulars and militiamen to the northwest on October 7, 1790, on a march from Fort Washington (present-day Cincinnati, Ohio). Two weeks later, they engaged a combined intertribal force of approximately 1,100 warriors near present-day Fort Wayne, Indiana. After committing only one-third of his men under Colonel John Hardin to the battle, Harmar got spooked by courier reports about the size of the enemy force, refused to reinforce Hardin's lines, and withdrew the bulk of his army into a defensive position. Once Hardin's battered troops were forced back and re-joined the main encampment, Harmar ordered a general retreat soon thereafter and returned to Fort Washington. In defeat, the American army had suffered nearly twice as many casualties as had the combined Indian force, including the death of at least 129 of Hardin's soldiers, plus an additional 94 that were wounded.

But the President and the Congress were undeterred and ordered a second military campaign to commence during the summer of 1791 to be led by General St. Clair. For various reasons, it did not get under way until October and it culminated in disaster.

On November 4, near present-day Fort Recovery in western Ohio and located very near the Indiana border and the headwaters of the Wabash River, St. Clair's somewhat rag-tag army of approximately 1,000 Americans and camp followers were surprised by a dawn attack from the

combined war party of roughly 1,000 Indian warriors, including numerous Kickapoo tribesmen, as had been the case in the defeat of Harmar's army. By every measure, St. Clair's army suffered an ignominious defeat. Of the 1,000 Americans involved, more than 600 were slain plus at least 300 additional casualties.⁹⁶ In the aftermath, President Washington promptly forced General St. Clair to resign his post. The recriminations were so great that the Congress launched its first-ever formal investigation into the affairs of the executive branch of the federal government.

[SIDEBAR: Far Worse than Custer's Last Stand at the Little Bighorn]

Growing up in Central Illinois, I was unschooled about the stiff and prolonged armed resistance mounted against U.S. Army regulars and militiamen by Kickapoo warriors in concert with numerous other tribes who fought valiantly to preserve their homelands in and around the Great Lakes. Who knew that "the most decisive defeat in the history of the American military" occurred in the Battle of the Wabash in the heart of the Midwest?⁹⁷ Our public history is sorely lacking in this regard.

The victorious Western Confederacy of American Indians was led by Little Turtle of the Miami (see accompanying lithograph drawing), Blue Jacket of the Shawnee, and Buckongahelas of the Delaware. The casualty rate they inflicted was proportionately the highest ever suffered by a U.S. Army unit in battle and included St. Clair's second in command, Major General Richard Butler. In sharp contrast, Indian casualties were estimated to total 61, with at least 21 killed in action.

⁹⁶ Thomas E. Buffenbarger, "St. Clair's Campaign of 1791: A Defeat in the Wilderness that Helped Forge Today's U.S. Army," U.S. Army Heritage and Education Center (September 15, 2011), accessed July 9, 2018, <https://army.mil/article/65594>.

⁹⁷ Landon Y. Jones, *William Clark and the Shaping of the West* (New York: Hill and Wang, 2004), 63.



Portrait of General Arthur St. Clair (1734-1814) by Charles Wilson Peale and lithograph of Miami War Chief Little Turtle. Source: National Portrait Gallery, Washington, D.C. and The Life and Times of Little Turtle: First Sagamore of the Wabash, Harvey Lewis Carter, p. 62-63.

At least three times as many U.S. soldiers were killed in the Battle of the Wabash as died with General George Armstrong Custer at the Battle of the Little Bighorn in Southeast Montana in June 1876. Arguably, this was the most decisive victory ever won on the battlefield by American Indians. Many viewed it as a massacre of historic proportions, but to the tribes who took part, it was a matter of self-defense.

The disastrous defeat of St. Clair's army quickly prompted President Washington to request that Congress fund the recruitment, training, and provisioning of a larger, stronger army that would be capable of overwhelming and conclusively defeating the Indian Confederacy in the Northwest Territory. What became known as the Legion of the United States was assembled by March 1792, and this force marched to western Ohio late in 1793 to begin construction of Fort Recovery near the site of St. Clair's defeat. Between June 30 and July 1, 1794, a combined force of Army regulars in the legion and militia fended off an Indian attack on Fort Recovery,

regrouped for an offensive, and marched northward. Major General “Mad” Anthony Wayne led this re-energized U.S. army of approximately 2,000 soldiers to a decisive victory over the Indian Confederacy in the Battle of Fallen Timbers on August 20, 1794, along the Maumee River near present-day Toledo, Ohio. This set the stage for the negotiation of the Treaty of Greenville in 1795, which brought an end to the Northwest Indian War.

According to R. David Edmunds, a professor of history at the University of Texas in Dallas, “The Kickapoo did not take part in the Battle of Fallen Timbers, but the resulting Indian defeat seemed to dampen their hostile ardor.”⁹⁸

The Kickapoo were dismayed that their supposed British military allies did not join in the battle and even went so far as to deny any of the besieged tribal warriors entry into Fort Miami. In reaction, many of the Wabash band of the Kickapoo moved westward to join encampments with the Illinois Kickapoo, while others joined Chief Serena’s band in the Spanish-controlled Missouri Territory across the Mississippi River. Nevertheless, a few Kickapoo tribal leaders joined half-heartedly in the ensuing intertribal Indian council held with U.S. government negotiators at Greenville, Ohio, in August 1795. Keehah and Paikeekano were the only two Kickapoo tribal leaders to mark the resulting treaty.⁹⁹

The Treaty of Greenville was to establish peace between the U.S. government and the Wyandot, Delaware, Shawnee, Ottawa, Chippewa, Potawatomi, Miami, Eel River, Piankeshaw, *Kickapoo*, and Kaskaskia tribes. It was made at Greenville, Ohio, in the Northwest Territory of the U.S., between U.S. Army Major General Anthony Wayne—Sole Commissioner—and sachems, chiefs, and warriors of the previously mentioned tribes. It was concluded on August 3,

⁹⁸ R. David Edmunds, “A History of the Kickapoo Indians in Illinois from 1750-1834,” M.A thesis (Bloomington-Normal, Illinois: Illinois State University, 1966), 63.

⁹⁹ *Ibid.*, 64.

1795, and subsequently ratified and proclaimed on December 2, 1795. It provided for the following:

- Cessation of all hostilities, peace established in perpetuity, and friendly intercourse to take place between the U.S. and these tribes;
- Prisoner exchange to occur within 90 days and chiefs of ten tribes to remain at Greenville, as hostages, until the delivery of all U.S. prisoners held by the tribes;
- Cession of most of the land in Ohio and Indiana to the U.S. plus a list of outposts and stations on small tracts in Michigan and Illinois;
- In particular, in Illinois Country, the cession of a six-square-mile tract at the mouth of the Chicago River, emptying into the southwest end of Lake Michigan; a twelve-square-mile tract at or near the mouth of the Illinois River emptying into the Mississippi River; and a six-square-mile tract at the old Peoria Fort and village near the south end of Illinois Lake on the Illinois River;
- Free passage of U.S. residents by land and water through remaining tribal lands and between a chain of posts and stations established and ceded in this treaty, plus free use of harbors and mouths of rivers along lakes adjoining Indian lands;
- Relinquishment by U.S. government to its claim on all other Indian lands north of Ohio, east of the Mississippi River, and west and south of the Great Lakes and the waters uniting them, according to terms of 1783 peace treaty between the U.S. and Great Britain ending the Revolutionary War;
- Transferring into private ownership of General George Rogers Clark and his soldiers 150,000 acres of land near the rapids of the Ohio River; establishing an American outpost at St. Vincennes, including surrounding land for which Indian title had been

- extinguished; Transferring other places into U.S. control which had been in possession of Frenchmen and other white settlers among French outposts and for which Indian title had been extinguished at or near Fort Massac along the Ohio River;
- Any of the tribes could opt for part of their annuity to be paid in the form of domestic animals, implements of husbandry, and/or other convenient utensils;
 - Commitment that these tribes could only sell their remaining lands to the U.S. government and, until such sale, the U.S. committed to protect the tribes on their lands against intrusion by all U.S. citizens and all other white persons;
 - Said tribes acknowledged themselves henceforth to be solely under U.S. protection and no other power whatsoever;
 - Said tribes were free to drive off intruders or otherwise punish, and the U.S. government was also at liberty to act against intruders on tribal lands;
 - Tribes were at liberty to hunt unmolested on lands ceded to the U.S., so long as they do so peaceably and don't injure people of the U.S.;
 - Trade was to be opened between these tribes and the U.S., with protection afforded to all trading agents licensed by the U.S. government;
 - Renunciation of private revenge or retaliation against misconduct by any individuals on either side, provided such cases had been reported to U.S. government officials or principal tribal chiefs for resolution that is mutually acceptable;
 - Affirmation of mutual obligation to report any movement toward warfare and do all in their power to prevent any new warfare in order to preserve friendship and peace;
- and

- Nullification of all other treaties between U.S. and any of said tribes since the 1783 peace treaty between the U.S. and Great Britain that fell within the purview of this treaty.

In addition, the U.S. government agreed to pay \$20,000 in goods immediately to the previously mentioned tribes, plus \$9,500 in useful goods every year henceforward and forever to the same tribes as stipulated:

- \$1,000 in useful goods every year to the Wyandot
- \$1,000 Delaware
- \$1,000 Shawnee
- \$1,000 Miami
- \$1,000 Ottawa
- \$1,000 Chippewa
- \$1,000 Potawatomi
- **\$ 500 *Kickapoo***
- \$ 500 Wea
- \$ 500 Eel River Miami
- \$ 500 Piankeshaw
- \$ 500 Kaskaskia

Nevertheless, while fewer than ten Kickapoo representatives were negotiating with the U.S. government, intratribal tensions festered. This was symptomatic of a growing schism among different bands of the Kickapoo regarding how best to deal with the persistent encroachment of American settlers. As was the case within numerous tribes, Kickapoo unity split into three divergent groups:

1. A pro-American faction who accepted the inevitability of white, Euro-American settlers systematically displacing and numerically dominating Indian cultures, thus resigning themselves to the futility of resistance;
2. An anti-American faction determined and unwavering in their opposition, yet demonstrably of insufficient strength to muster an extended and effective armed resistance, thus functioning as more of a nuisance factor than a threat to prevail; and
3. A faction who opted to migrate south and join in a loose association with Shawnee, Delaware, Cherokee, and others, to live together under the leadership of the renegade Cherokee Chief Bowles in Arkansas on the White River.

The upshot was that some Kickapoo warriors stood their ground and continued raiding in the Illinois Country, while others moved westward with their families and shifted their focus to the Spanish provinces beyond the Mississippi River. In the latter case, the Kickapoo were recruited by Spanish officials and served as the principal allies of the Spanish in their on-going fight against the Chickasaw and Osage nations in Missouri and Arkansas, respectively. Under Chief Serena, they functioned as Spanish mercenaries against tribes in the Trans-Mississippi region who continued to be armed and instigated by the British.

By 1800 and thereafter, growing numbers of Kickapoo became increasingly disgruntled with cutbacks in Spanish “gifts” and bounties and sought to return to their homelands, crossing back over the Mississippi River and resettling in Indiana and Illinois, the central and western sections of what had been their part of the Algonquian range in the Northwest Territory. They showed little regard for the Treaty of Greenville, as first evidenced by their refusal to pick up their annuity in 1796.

The U.S. government successfully pressured many of the tribes that signed that treaty by threatening to withhold their annuities if they took hostile actions against the U.S. But that tactic didn't work with the Kickapoo because, comparatively, their annuity was so small, and when distributed, it was awarded quite selectively to "friendlies" among the Wabash Kickapoo. William Henry Harrison, the newly-appointed, 28-year-old, Territorial Governor of Indiana noted, "The Kickapoo, who are a strong and warlike nation, have not a proper proportion of goods allowed them by the United States. Their annuity is 500 dollars only, which is the sum allotted to the remnants of the Kaskaskias, [an Illiniwek tribe,] which have only fifteen or twenty warriors. The Kickapoo of the Prairie, a large band of that nation, never receive any part of the goods. They frequently steal horses which are never returned because they do not fear the withholding of their annuity."¹⁰⁰ In fact, Kickapoo raiding in Illinois Country was so pervasive by 1801 that Harrison requested troops from the newly-elected President Thomas Jefferson to be stationed in forts along the Illinois River.¹⁰¹

Harrison faced a very complex and daunting challenge from the outset. For example, there was the near impossibility of bringing white murderers of Indians to justice, the need to remove white settlers who had moved beyond the treaty lines, the illegal destruction of game on Indian lands by whites, the necessity to conciliate the Indians lest the abuses lead them to war against the United States, the immense and destructive problem of drunkenness among the Indians, and the difficulty of dealing with Indian groups that had not yet entered into any treaty relationship with the United States.¹⁰²

¹⁰⁰ Ibid., 72.

¹⁰¹ Ibid., 73.

¹⁰² Francis Paul Prucha, *American Indian Treaties: The History of a Political Anomaly* (Berkeley: University of California Press, 1994), 116-117.

Furthermore, Jefferson came to the presidency with a firm belief that any Indian claims to title of lands in the Indiana Territory and beyond must be cleared away and permanently extinguished. His overarching policy objective was to establish unfettered public domain ahead of the advancing line of American settlement and yeoman farmers. He was also unsettled by the transfer of Spanish Louisiana to Napoleon's France and his perception of an increased security threat to the U.S. That concern heightened his desire for new land cessions from tribes spread across the Northwest Territory, so that U.S. control of the upper Mississippi River could be secured and American control of the whole eastern border of the Mississippi River could be consolidated. In a letter to Harrison, he wrote, "The crisis is pressing. Whatever can now be obtained must be obtained quickly. The occupation of New Orleans, hourly expected, by the French is already felt like a light breeze by the Indians. You know the sentiments they entertain of that nation. Under the hope of their protection, they will immediately stiffen against land cessions to us. We had better, therefore, do at once what can now be done."¹⁰³

A very important corollary aspect of Jefferson's Indian policy to underpin new treaty negotiations was a program of government-induced civilization that was designed to transform Indians from communal hunters and gatherers into farmers. The U.S. Secretary of War Henry Dearborn in correspondence reminded Harrison that the intention of Congress in encouraging more trade with the pertinent tribes was to promote "the introduction of civilization, by encouraging and gradually introducing the arts of husbandry and domestic manufacture among them." President Jefferson himself further underscored, "The decrease of game rendering their subsistence by hunting insufficient, we wish to draw them to agriculture, to spinning, and weaving."¹⁰⁴

¹⁰³ Ibid., 117.

¹⁰⁴ Ibid., 118.

Harrison resolutely set about the task at hand, having been further empowered as Superintendent of Indian Affairs and the appointed commissioner in charge of concluding treaties with Indians throughout the Northwest Territory. He exploited tribal territorial disagreements and very aggressively pursued new land cessions. Sometimes he gave “gifts” and cajoled. In August 1802, for example, he met in council with representatives of Kickapoo, Kaskaskia, Wea, Eel River Miami, Piankeshaw, and Potawatomi at Vincennes and told them that the president wanted them “to assemble your scattered warriors, and to form towns and villages, in situations best adapted to cultivation; he will cause you to be furnished with horses, cattle, hogs, and implements of husbandry, and will have persons provided to instruct you in the management of them.”¹⁰⁵

On other occasions, Harrison blustered and threatened. He routinely selected compliant petty chiefs within targeted tribes with whom to negotiate. Through it all, Jefferson counseled Harrison that “when [the Indians] withdraw themselves to the culture of a small piece of land, they will perceive how useless to them are their extensive forests, and will be willing to pare them off from time to time in exchange for necessities for their farms and families.”¹⁰⁶

Between 1803 and 1809, Harrison negotiated and concluded a total of eleven new treaties with different combinations of tribes. The Kickapoo were not involved in most of these negotiations and they were growing increasingly wary of settler encroachment on their homelands. But they did have representatives in the council proceedings in Vincennes that resulted in the Treaty of Fort Wayne and a supplement in 1803. In that treaty between the U.S. government and chiefs and warriors of the Eel River Miami, Wyandot, Piankeshaw, and Kaskaskia tribes, plus the Kickapoo tribe, by their representatives, the chiefs of the Eel River

¹⁰⁵ Ibid., 118-119.

¹⁰⁶ Ibid., 119.

Miami tribe principally gave their consent to Article 4 of the Fort Wayne Treaty of 1803 in which they ceded three tracts of land to the U.S., one square mile apiece, on roads leading from Vincennes to Kaskaskia and Clarksville, respectively, for the establishment of houses of entertainment and accommodation for travelers. It was signed on August 7 and ratified and proclaimed on December 23, 1803.

Nonetheless, the Kickapoo were not about to relinquish their homelands without a fight. Hence, there was a steady increase in tensions and incidental conflict between Kickapoo warriors and American soldiers, militia, and settlers at flashpoints along the Wabash River and across Illinois Country. They also shrewdly kept their options open. Starting in 1804, they sent delegations to councils convened regularly by British authorities in Montreal, Canada, to cultivate stronger ties with disaffected tribes throughout the Northwest Territory.

Throughout his tenure in office and with Harrison as his dogged agent, Jefferson acted on a fundamental presumption: “While [the Indians] are learning to do better on less land, our increasing numbers will be calling for more land, and thus a coincidence of interests will be produced between those who have lands to spare and want other necessities, and those who have such necessities to spare and want lands.”¹⁰⁷ Ever more firmly, the Kickapoo rejected prescriptions of prosaic farm lives for their future and were determined to take a stand for their preferred way of being and living.

¹⁰⁷ Ibid., 128.

CHAPTER 11

THE TIPPING POINT

In 1804, the Lewis and Clark Expedition reportedly encountered a Kickapoo hunting party soon after the Corps of Discovery embarked on their journey up the Missouri River near present-day St. Charles, Missouri. They told the American explorers that their home village was located on the headwaters of the Kaskaskia River in what was then Illinois Country and treated them with respect and generosity, giving them four freshly killed deer.¹⁰⁸

However, that friendly exchange belied decidedly growing Kickapoo frustration with American authorities and encroaching settlers that was fueled by compounding grievances. First, there is ample evidence that trading agents licensed by the U.S. government were systematically cheating the Kickapoo and other tribes in the region. Harrison acknowledged as much when he reported at the time that “the name of American has become universally odious to the tribes of the Frontier,” and he sought to regulate liquor sales to help defuse growing tensions.¹⁰⁹ Second, large American hunting expeditions from Kentucky and other borderlands routinely trespassed with impunity on tribal lands to hunt buffalo, deer, and bear for their skins, often leaving the meat to spoil. Third, frontier injustice prevailed. Harrison complained to President Jefferson about the mishandling of Indians accused of crimes against Euro-Americans. Indians charged with serious crimes always came before a non-Native jury, if any jury trial, and almost always were summarily hanged, while non-Natives accused of serious crimes against Indians typically went unpunished. Fourth, when the Kickapoo and other tribes resisted land cessions, U.S. government officials often ordered land surveys regardless. Fundamentally, many fearful settlers

¹⁰⁸ R. David Edmunds, “A History of the Kickapoo Indians in Illinois from 1750-1834,” M.A. thesis (Bloomington-Normal, Illinois: Illinois State University, 1966), 73.

¹⁰⁹ *Ibid.*, 74.

harbored deep-seated racist biases and viewed all Indians as less than human, treating them with utter contempt. A prevailing attitude held that,

They have the shapes of men and may be of the human species, but certainly in their present state they approach nearer the character of Devils; take an Indian, is there any faith in him? Can you bind him by his favors? Can you trust his word or confide in his promise? When he makes war upon you, when he takes you prisoner and has you in his power, will he spare you? In this he departs from the laws of nature, by which according to Baron Montesquieu and every other man who thinks on the subject, it is unjustifiable to take away the life of him who submits; the conqueror in doing otherwise becomes a murderer, who ought to be put to death. On this principle are not the whole Indian nations murderers? ... The tortures which they exercise on the bodies of their prisoners, justify extermination.¹¹⁰

By 1805 and thereafter, growing alarm spread throughout Illinois Country, especially caused by Kickapoo-settler depredations and responses. Chief Pawatomo of the Illinois Kickapoo and Chief Oulawan of the Wabash Kickapoo rejected Harrison's peace-making appeals. In fact, responding to British gifts and nefarious encouragement, the Kickapoo assumed a leading role in 1806 in circulating war belts in hopes of persuading other tribes in the region to join an alliance to overthrow U.S. rule. But the Potawatomi, Miami, and Piankeshaw tribes gave only tacit support to the Kickapoo entreaties. Nevertheless, mounting concern in Washington, D.C. prompted U.S. Secretary of War Henry Dearborn to order Harrison to summon Kickapoo tribal leaders to a hastily organized council in what ultimately proved to be an unsuccessful effort to counteract their conspiratorial efforts.

The Kickapoo call to warfare, however, did serve as an important catalyst for the Shawnee Prophet Tenskwatawa and his brother, Chief Tecumseh, to organize what became a very formidable pan-Indian resistance movement to oppose further frontier settlement east of the Mississippi River. Having received Kickapoo war belts in their Shawnee village near Greenville,

¹¹⁰ Wilcomb E. Washburn, ed., *The Animals Vulgarly Called Indians* (Garden City, New York: Doubleday and Co., 1966), 111.

Ohio, and because of their high regard for the fighting capabilities of the Kickapoo, Chief Tecumseh and the Prophet moved to the Kickapoo villages on the Wabash River. There they provided the dynamic and far-reaching leadership to give very persuasive, stirring voices to the pan-Indian vision that had been festering among the Kickapoo for some time and to project it far and wide across Indian Country.

To the consternation of U.S. government authorities, Kickapoo warriors continued their unsettling activities. For instance, they provocatively targeted and killed one of the few surviving Kaskaskia tribesmen of the Illiniwek Confederacy during 1807 to further intimidate other tribes who were comparatively friendly toward the Americans. This greatly upset U.S. authorities because they had recently extended special treaty protection in an extraordinary effort to safeguard surviving Kaskaskia tribal members.

By 1808, the cosmopolitan village of Kithtippecanoe/Prophetstown, located along the Wabash River near present-day Lafayette, Indiana, had emerged by frontier standards as the center for intertribal organizing. Thousands of Indians from assorted tribes in the Northwest Territory were drawn there to hear inspiring appeals for pan-Indian nationalism as well as admonitions to shun alcohol and other non-Native vices. They were counseled to have no contact with whites, especially U.S. settlers, and to dedicate themselves to rebuilding Native physical, moral, and spiritual strength. Above all else, they were energized to focus on preserving their land tenure, to hold remaining Indian lands, and to recover those lost to American settlers, wherever and whenever possible. There were to be no new cessions or transfers of land title to the U.S. government without the expressed common consent of all tribes across the region.

Despite growing unrest and vehement opposition from many among the Kickapoo, Wea, and Miami tribes to relinquishing any more of their homelands along the Wabash River, Harrison continued his relentless negotiations to open more territory for American settlement.¹¹¹

Pursuing a two-step strategy, he schemed to council first with presumably compliant tribal representatives of the Delaware, Eel River, Potawatomi, and Miami at Fort Wayne and to offer enticing annuities and in-kind gifts to reach agreement and then, in turn, use them to pressure representatives of intransigent tribes like the Kickapoo and Wea. The Miami representatives were the only holdouts in the initial round of negotiations. They came prepared with a copy of the 1795 Treaty of Greenville, highlighting the article that was to have secured possession of their land around the Wabash River. Furthermore, they explained that they had historically allowed the Wea and other surrounding friendly tribes to also use the land in question. Yet, they noted that there were no Wea representatives present, and they did not want to agree to any new treaty without the approval of representatives of the other tribes who inhabited land in the tracts sought by Harrison.¹¹² After two weeks of negotiations, Potawatomi representatives prevailed upon the Miami representatives to accept the new treaty in recognition of prior concessions in other settings that they had made reportedly on behalf of the Miami.

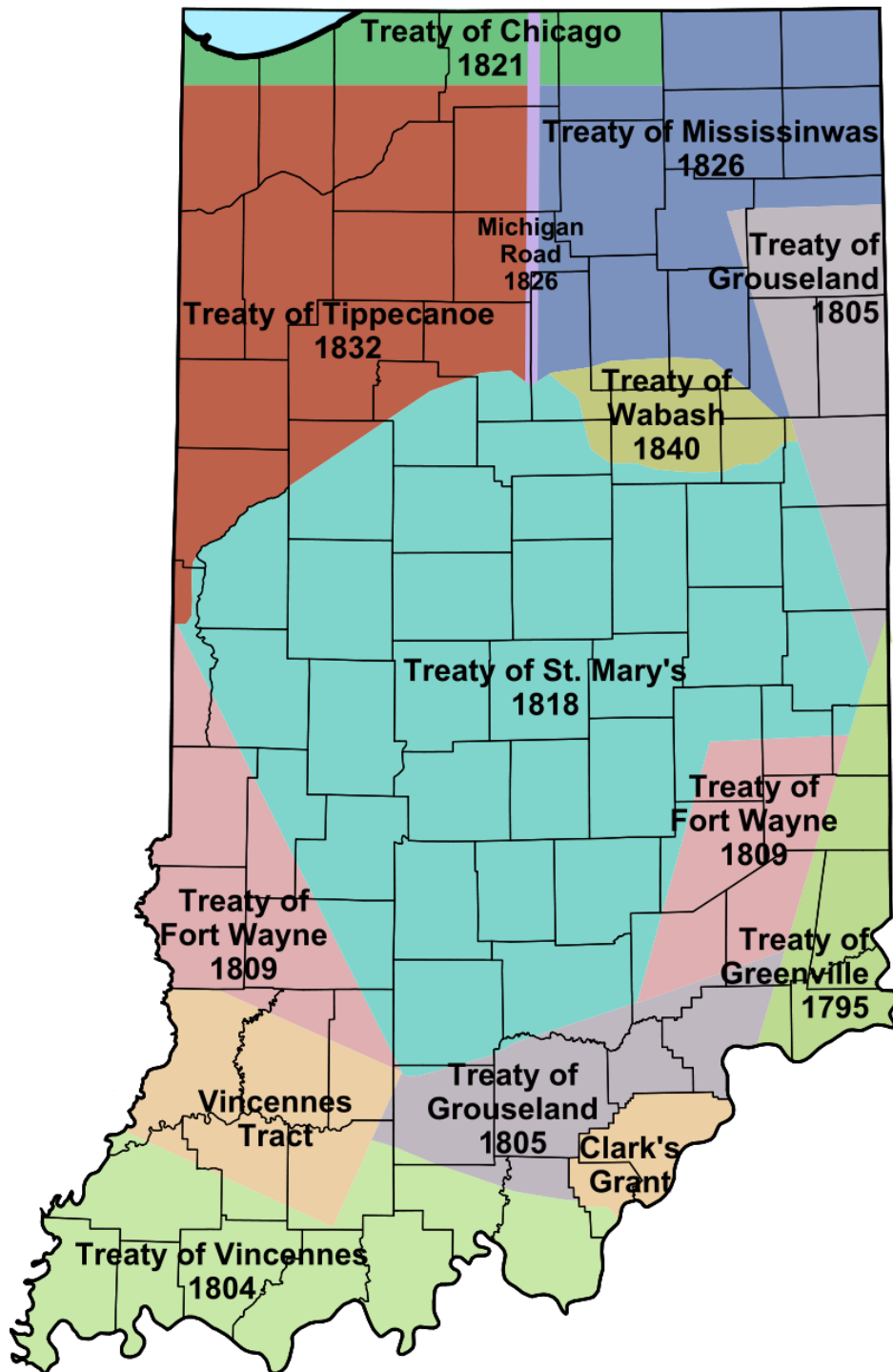
Consequently, the first stage of negotiations ended and the Treaty of Fort Wayne was signed on September 30, 1809, therein ceding approximately three million additional acres of tribal lands to the U.S. government. This ominously included land along the Wabash River north of Vincennes.

¹¹¹ Robert M. Owens, *Mr. Jefferson's Hammer: William Henry Harrison and the Origins of American Indian Policy* (Norman: University of Oklahoma Press, 2007), 200.

¹¹² *Ibid.*, 201-203.

Following up, Harrison leaned on Miami Chief Pacanne to induce Wea representatives to accept the treaty in combination with additional annuities. The Wea representatives were then awarded increased annuities as payment for securing acceptance of the treaty by Kickapoo representatives in December 9, 1809. Finally, the treaty was ratified by the U.S. Senate on March 5, 1810 and proclaimed on March 8, 1810.

Under the terms of the treaty, the Kickapoo were to receive a permanent additional annuity of \$400 plus \$800 in goods in exchange for the cession of the tract of land originally agreed upon September 30, 1809. Furthermore, the Kickapoo were to receive an additional annuity of \$100 plus \$700 in goods as full compensation in exchange for all the land ceded in September that was located between the Wabash and Vermilion rivers. A line was to be drawn from the northern corner of said ceded tract so as to strike the Vermilion River at a distance of 20 miles in a direct line from its mouth. (See corresponding map below.) However, the additional annuity of \$100 was also contingent upon acceptance of this further cession by the Miami tribe. Without Miami consent, the U.S. government would not be obligated to pay the additional annuity of \$100 and the stipulations of the Greenville Treaty of 1795 would be reinstated regarding the manner of paying annuities and tribal hunting rights.



A map of Indiana showing the areas purchased, dates, and the name of the treaties. The land was purchased from Native Americans Treaties by William Henry Harrison, Thomas Posey, Jonathan Jennings and George Rogers Clark. Source: [https://en.wikipedia.org/wiki/Treaty_of_Fort_Wayne_\(1809\)](https://en.wikipedia.org/wiki/Treaty_of_Fort_Wayne_(1809)).

Predictably, Shawnee Chief Tecumseh and his brother, the Prophet Tenskatawa, used the Fort Wayne Treaty of 1809 to rally increased intertribal opposition to any further negotiations with Harrison. On August 12, 1810, Tecumseh led a multi-tribal delegation to a stormy 10-day council with Harrison in Vincennes. Harrison rejected the idea of common tribal title to disputed lands and sought President Madison's approval to rapidly speed up treaty negotiations with predisposed tribal chiefs to consolidate settlers' control in Indiana and to transform it from a territory into a state. Meanwhile, British supplies and arms were stockpiled in Prophetstown and closer collaboration ensued on the Wabash-Montreal axis between the intertribal alliance and British military agents.

Open hostilities broke out in 1811, but a split developed among the Kickapoo about whether to go to war with the U.S. government. British agents knew that Tenskatawa was the more impulsive and volatile of the two Shawnee brothers and they urged him to rouse the Wabash band to make war on Harrison and his combined force of U.S. army troops and territorial militiamen. However, the band of Kickapoo in the heart of Illinois Country, under the leadership of Chief Little Deer, opposed going on the war path. Instead, they conferred with Harrison in Vincennes and William Clark, the U.S. Superintendent of Indian Affairs for the Northwest Territory, in St. Louis and were counseled to stand down and return to their villages and camps.

Tecumseh and his Kickapoo-Shawnee bodyguards traveled to the Deep South in late summer to recruit more warriors from the Creek, Cherokee, Choctaw, and Chickasaw tribal nations. Taking advantage of his absence, Harrison launched a preemptive military campaign targeting Prophetstown. He issued an ultimatum to Tenskatawa and his warriors, after stopping on the march northward from Vincennes long enough to establish Fort Harrison near present-day

Terre Haute, Indiana. In response to the provocation, Indian warriors, including a substantial number of Kickapoo, attacked Harrison's assault force and set in motion what unfolded as the Battle of Tippecanoe. The combined Indian forces killed 188 Americans and wounded many more. Thirty-eight Indian warriors were killed, including 11 Kickapoo, which constituted the single largest loss of any one tribe. Ultimately, the combined tribal force was overwhelmed. Harrison and his soldiers proceeded to destroy and burn Prophetstown in its entirety.

In response, Indian reprisals and raiding worsened across the region. Tenskatawa and his followers retreated to Amherstburg in the Province of Ontario in upper Canada near present-day Detroit to regroup and rendezvous periodically with his remaining intertribal supporters. In December, Tecumseh returned and was re-supplied by British military instigators.

Meanwhile, Harrison and Illinois Territorial Governor Ninian Edwards became increasingly worried about the steadily escalating number of Indian raids and coordinated violence, especially as carried out by Kickapoo warriors. Together, they urged U.S. Secretary of War William Eustis to go to war against Indians across the Northwest Territory and perpetually harass them. At the same time, they cynically attempted to meet in council with some Kickapoo tribal leaders. But their outreach efforts proved unfruitful. Instead, they firmly resolved to make an example of the Kickapoo and to conduct a war of extirpation against them.

Practically speaking, Edwards' reach exceeded his grasp in Illinois Territory. He had a pool of only 2,000 men above the age of 21 from which to form a militia and take the battle to his Indian foes. Accordingly, he formally appealed to Washington, D.C. in May 1812, to send a substantial force of mounted U.S. Army regulars to spearhead the assault on the Kickapoo.

Federal authorities did not respond immediately, but it did not fall upon deaf ears. The U.S. government declared war on Great Britain the next month.

There were multiple causes for the War of 1812, and the British role in stoking and inciting Indian warfare in the Northwest Territory was certainly a significant contributor. Chief Tecumseh and the Prophet Tenskatawa drew renewed hope for the success of their Pan-Indian insurgency when the War of 1812 broke out. They immediately began planning a major, coordinated war offensive against U.S. military outposts throughout the Northwest Territory. Potawatomi warriors were to attack Fort Wayne in September. Concurrently, the Wabash band of the Kickapoo, led by Chief Pakoisheecan, were to attack Fort Harrison where U.S. Army General Zachary Taylor, who was later to be nicknamed “Old Rough and Ready” and elected 12th president of the U.S., was in command.

After maintaining an eight-day siege of Fort Harrison, the Kickapoo warriors withdrew when an American relief force arrived. Some participated in skirmishes along the White River, including the so-called Pigeon Roost Massacre along the river’s east fork, during which at least 20 frontier settlers were killed.

In response, additional U.S. Army troops, plus 2,000 Kentucky militia, were dispatched to the Illinois and Indiana territories. More specifically, 3 companies of U.S. Army regulars were sent to bolster Edwards and the Illinois militia. They were supplemented by U.S. General Samuel Hopkins and 2,000 Kentucky mounted riflemen. Together, Edwards and Hopkins planned a coordinated military assault to exterminate the Illinois band of Kickapoo near Lake Peoria.

In early October, Hopkins and his army crossed the Ohio River from Kentucky at the mouth of the Wabash River for a planned rendezvous with Edwards and his force of Illinois militia. But after five days of harassment by Kickapoo outriders and the surrounding prairie set on fire, the Kentuckians turned around and retreated across the Ohio River. Regardless, on October 18, Edwards and his force of 360 Illinois militia went ahead with their attack on Chief

Pawatomo and his Kickapoo village near Lake Peoria, in which they routed and scattered the Indians and destroyed their village. In November, they proceeded on with strengthened force to capture the Wabash Kickapoo village near Fort Harrison. Subsequently, Edwards and his troops withdrew back into Illinois Territory. No Kickapoo counteroffensive was mounted because Edwards' army had gained decided numerical superiority.

Next, most of the Illinois and Wabash Kickapoo bands dispersed into smaller bands and migrated to the upper region of the Old Northwest. As a fighting force, they were reduced to occasional raids into Illinois Territory, evading the porous defenses of Edwards' Illinois Rangers. For example, early in 1813, Chief Little Deer led multiple raiding parties against settlements in central and southern Illinois. According to Edmunds, "Two Frenchmen were sent by U.S. officials at St. Louis to investigate and reported back that Kickapoo warriors were killing any white man they encountered, even those of French descent. They stated that a party had also recently killed three men on the headwaters of the Kaskaskia River and that another band had slain a man whom they surprised on the upper Sangamon."¹¹³

A different group of 150 Kickapoo warriors and their families relocated to Amherstburg, Ontario in Canada, to join a large intertribal encampment of more than 1,000 warriors reconstituted and led by Chief Tecumseh and Prophet Tenskatawa. From that base camp, in January 1813, they joined in the attack and defeat of U.S. Brigadier General James Winchester's army at Frenchtown, Michigan, and in the Raisin River Massacre where an estimated 500 Kentucky militiamen who had been taken prisoner were annihilated.

During the summer, Kickapoo scouts also informed British Brigadier General Henry Proctor in Detroit of the U.S. military build-up south of Detroit under then-U.S. Major General

¹¹³ R. David Edmunds, "A History of the Kickapoo Indians in Illinois from 1750-1834," M.A. thesis (Bloomington-Normal, Illinois: Illinois State University, 1966), 111.

William Henry Harrison. That reconnaissance coupled with U.S. Commodore Matthew Perry's pivotal defeat of British gunboats in the Battle of Put-in-Bay on Lake Erie led to Proctor's withdrawal eastward from Detroit and Malden. Harrison's army pursued them into the Province of Ontario, and, on October 5, 1813, Harrison's army defeated the combined British-Indian army in the pivotal Battle of Thames River. Chief Tecumseh's death in that battle personified the end of any viable prospects for pan-Indian sovereignty and the establishment of an independent Indian state anchored in at least part of the Northwest Territory and based upon the common intertribal holding of land. In hindsight, it marked the real last stand for full-fledged Native American independence in homelands of their own choosing arguably anywhere on the continent.

A diehard band of Kickapoos stuck with the Prophet in Amherstburg and continued raiding against U.S. military outposts and vulnerable settlers. However, bands of increasingly disaffected and despondent Wyandot, Chippewa, Delaware, and Miami warriors defected from the tribal alliance with the British. Nevertheless, two British agents, Robert Dickson and Robert McKay, sought to rally support among remaining anti-U.S. Indians like the Kickapoo Chief Pawatomo and his 400 warriors and their families encamped at the mouth of the Fox River. Their military objective was to launch renewed attacks on U.S. frontier settlements along the Mississippi River with a view to establishing a salient from which to mount on-going hostilities. Toward that end, they established an arms depot at Prairie du Chien in present-day Wisconsin.

Small, mobile bands of 20-30 Kickapoo, Sac, and Fox warriors continued to conduct frequent hit-and-run raids in Illinois Country and against trans-Mississippi River settlements, fueling growing fear of renewed turmoil and the prospect of bands of Indians returning to what had been their Fox River haven. One such alarming attack, The Wood River Massacre, occurred

on July 10, 1814, along a wooded trail in present-day Madison County near Alton, Illinois. One woman and six children were killed.¹¹⁴



MAP OF ILLINOIS IN 1812
Showing counties and location of Indian tribes.

Locating the Wood River Massacre in 1814 in Madison County, Illinois. Source: "The Wood River Massacre," Merrill S. Rosenthal, p. 26-27.

¹¹⁴ Merrill S. Rosenthal, "The Wood River Massacre," *Illinois Magazine*, vol. 20, no. 3 (1981): 21-30.

Nonetheless, British military strategists concluded that they couldn't spare troops from the Eastern theater of the war to consolidate, occupy, and expand upon the military salient carved out by Kickapoo warriors and their allies, thus nullifying the Dickson-McKay strategy to regain the offensive in the Western theater. The War of 1812 had ended before the British leaders and military commanders could fully grasp the potential advantage gained by the Fox River warriors. In retrospect, that was a large missed opportunity on behalf of the British, and they once again betrayed their Indian allies.

CHAPTER 12

THE AFTERMATH AND COMING TO TERMS

The Treaty of Ghent was the peace treaty that ended the War of 1812 between the U.S. and Great Britain. Negotiators for both sides met and signed it on December 24, 1814, in the city of Ghent in the Netherlands. It restored relations between the two nations and re-established status-quo antebellum, reaffirming that the borders of the two countries in North America conformed to the lines that had existed before the war started in June 1812.

The treaty was approved by the Parliament of the United Kingdom of Great Britain and signed into law on December 30, 1814 by the Prince Regent, the future King George IV. But it took a month for word of the new peace accord to reach the U.S. and, in the meantime, American forces under General Andrew Jackson fought and won the Battle of New Orleans against British troops on January 8, 1815. The Treaty of Ghent did not fully take effect until it was ratified by the U.S. Senate unanimously on February 17, 1815.

Nevertheless, the Kickapoo did not readily lay down their arms and resign themselves to military defeat. They felt betrayed by what they viewed as treachery on the part of other tribes in the region who had made peace with U.S. authorities. Kickapoo warriors continued to attack other tribes, who sought, in turn, the protection of U.S. soldiers which they had been promised when they signed their treaties of peace.¹¹⁵ For example, Chief Pawatomo vowed to continue the war, rejected peace “feelers” from William Clark, the U.S. Superintendent of Indian Affairs based in St. Louis, and led wide-ranging forays into Missouri. They wreaked so much havoc that Clark had to enlist the assistance of British agents to induce some Kickapoo tribal leaders to participate in a hastily convened peace conference at Michilimackinac in Michigan in June 1815.

¹¹⁵ R. David Edmunds, “A History of the Kickapoo Indians in Illinois from 1750-1834,” unpublished M.A. thesis (Bloomington-Normal Illinois: Illinois State University, 1966), 116.

But the reluctant Kickapoo representatives did not arrive in any mood to negotiate. In Indiana Territory, the wife of one of their chiefs who had been living with their band on the Vermilion River had been killed in her sleep by an American militiaman, after her husband had been invited to visit Fort Harrison. Even though the murderer acknowledged his crime, he was acquitted in a trial of his peers. Similarly, other grievances went unpunished, including a Kickapoo fisherman being shot in the back by American Rangers at the mouth of the Detroit River, even though the victim had disavowed any involvement in any ongoing hostilities.¹¹⁶ Not surprisingly, the Kickapoo representatives resisted British pressure and categorically refused to sign any formal agreements.

In growing numbers, they returned to their ancestral homelands and old hunting grounds in central and southern Illinois, where they encountered a rising tide of Euro-American settlers spilling westward. Tensions were heightened further when the U.S. government began awarding land carved out in Illinois Country between the Illinois and Mississippi rivers as war bounties to veterans of the War of 1812.

U.S. government officials became increasingly anxious to remove and resettle all of the Kickapoo to the west of Illinois Country. They foresaw many problems arising and further pressured the Kickapoo to move into present-day Missouri to get away from white settlers. As a part of this effort, U.S. officials began to withhold annuities promised to the Kickapoo in prior treaties.¹¹⁷

Consequently, by September 1815, some Kickapoo tribal leaders living in northern Illinois Country reluctantly agreed to meet with William Clark, Ninian Edwards, and Auguste Chouteau, who were acting as U.S. Commissioners. They met at Portage des Sioux in the

¹¹⁶ Ibid., 117-118.

¹¹⁷ Ibid., 120-121.

Missouri Territory and signed a peace and friendship treaty which was ratified on December 26, 1815, ostensibly obligating all the Kickapoo east of the Mississippi River (except those in Canada) to abide by its provisions:

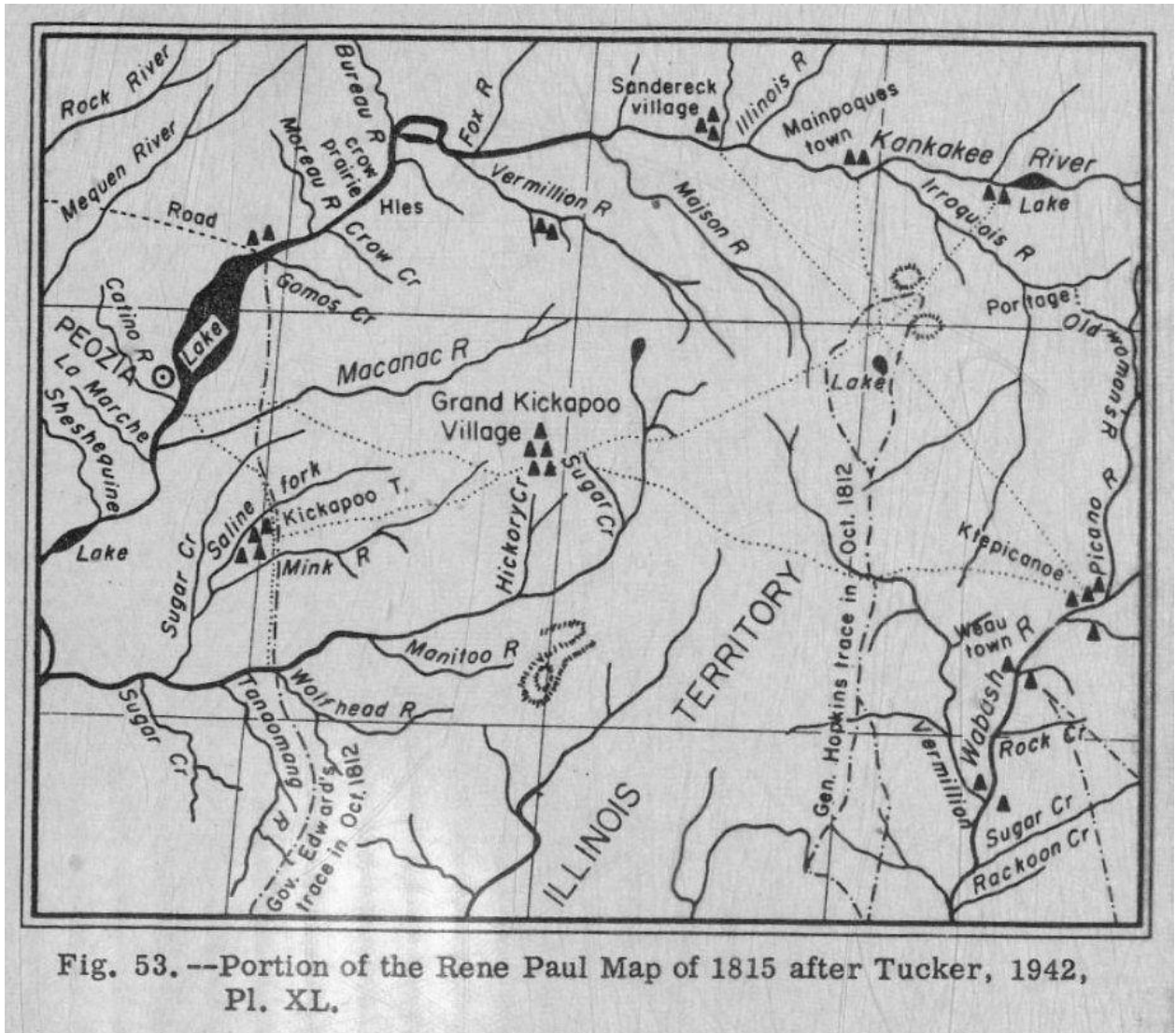
- To establish perpetual peace and friendship between U.S. citizens and the Kickapoo tribe;
- To recognize and reaffirm every treaty previously agreed to between the U.S. and the Kickapoo tribe (specifically the 1804 Treaty of St. Louis in which the Sauk and Fox tribes ceded northeastern Missouri and much of Illinois and Wisconsin, as well as the 1808 Treaty of Fort Clark in which the Osage tribe ceded all of Missouri and Arkansas);
- To exchange all prisoners of war at Fort Clark (Peoria) on the Illinois River; and
- To extend mutual forgiveness for injuries and acts of hostility during the War of 1812.

Soon thereafter, in June 1816, a peace and friendship treaty was signed at Fort Harrison in Indian Territory by representatives of the Kickapoo and Wea tribes as well as Benjamin Parke, a former Indian agent who had been specially authorized by the President of the United States on behalf of the U.S. government. It was ratified and proclaimed on December 30, 1816, whereby the signatories were obligated:

- To acknowledge themselves to be in a state of peace and friendship again;
- To require the tribes to acknowledge the validity of and declare their adherence to the 1795 Treaty of Greenville and all subsequent treaties made with the U.S.;

- To explicitly recognize and confirm the boundary lines surveyed and marked by the U.S. government of the land on the Wabash and White rivers ceded in 1809 pursuant to several treaties made with the U.S.; and
- To acknowledge they had ceded to the U.S. all land in the tract which lies between the aforesaid boundary line on the northwest side of the Wabash and Vermilion rivers and a line to be drawn from the northwest corner of said boundary, so as to strike the Vermilion River 20 miles in a direct line from its mouth, according to the terms and conditions of the treaty made by the Kickapoo with the U.S. on December 9, 1809.¹¹⁸

¹¹⁸ William B. Brigham, "The Grand Kickapoo Village and Associated Fort in the Illinois Wilderness," *Indian Mounds and Villages in Illinois*, Illinois Archaeological Survey, no. 2 (June 1960): 96.



Locating the Grand Village of the Kickapoo at the juncture of Hickory and Sugar Creeks in 1815. Source: "The Grand Kickapoo Village and Associated Fort in the Illinois Wilderness," William B. Brigham, p. 96.

Nevertheless, the hoped-for pacification of the Kickapoo did not take root substantially. During 1817, mounting pressure to compel the Kickapoo to leave Illinois Country met with stiffening tribal resistance. Once again, some bands sought to forge a new confederation with disaffected Potawatomi and Winnebago warriors to oppose the cession or sale of any more of

their tribal lands. U.S. government surveyors, attempting to survey lands within Kickapoo territory were driven off with damaged equipment and destroyed notes.¹¹⁹

Not surprisingly, there was a renewed outcry from American settlers for protection against Indian depredations. Militiamen were called out to patrol the presumed boundaries of the Kickapoo lands and to guard besieged surveyors. In one incident, a party of four Kickapoo men and three women were found in present-day Wayne County with a stolen horse and were slain by edgy militiamen. Their bodies were dumped in a common grave.¹²⁰

To the south and in protest of the Cherokee Removal Treaty of 1817, Cherokee Chief Bowles led his multi-tribal band out of Arkansas and they resettled on the Sabine River north of Nacogdoches, with the blessing of the Spanish Crown, in the Mexican province of Texas. As many as 800 disgruntled Kickapoo along with Shawnee and Delaware tribespeople were recruited by the renegade Cherokee to help ward off other Indian raiders. Together, they set themselves up as frontier guards of sorts between Mexican settlers and “wild” Plains Indians such as the Comanches, Kiowas, and Apaches, who were a constant menace to Euro-American colonizers that were the target of incessant raids from across the U.S. border.

But the escalating cycle of violence and reprisals on the Algonquin Range took its toll. Some Kickapoo tribal members met in council to discuss whether to relinquish their territorial claims in Illinois and western Indiana. Sensing that a window of opportunity had opened, observant U.S. officials decided to pursue additional treaties. Again, they put out peace feelers in June 1818. By November, a Kickapoo delegation representing the Prairie Band grudgingly

¹¹⁹ Clarence Carter, *Territorial Papers of the United States* (Washington, D.C.: U.S. Government Printing Office, 1934-1962), Volume XVII; letter from Governor Edwards to Acting U.S. Secretary of War, Kaskaskia, February 2, 1817, 483.

¹²⁰ Solon Buck, *Illinois in 1818* (Springfield: Illinois Centennial Commission, 1917), 13.

traveled to St. Louis and signaled that a majority had resigned themselves to leaving Illinois Country. Only a month later, Illinois Country officially became the 21st state in the Union.

U.S. government officials wasted no time in capitalizing upon the moment. Auguste Chouteau and Benjamin Stephenson were designated as U.S. Commissioners to confer with the Kickapoo representatives. The negotiations were concluded with signatures of the Treaty of Edwardsville on July 30, 1819, in Edwardsville, Illinois. Subsequently, it was ratified and proclaimed on January 13, 1821. Therein the parties agreed to the following provisions:

- The Kickapoo were to cede and relinquish all of their land east of the Mississippi River to the U.S. government;
- The U.S. government would guarantee to the Kickapoo the peaceful possession of a tract of land ceded to them in Missouri and to restrain and prevent all white persons from hunting, settling, or otherwise intruding on it, provided that any U.S. citizen who is lawfully authorized shall be permitted to pass/repass through the tract and navigate waters thereof without any hindrance, toll, or exaction from the Kickapoo;
- The U.S. government would pay a bonus of \$3,000, payable in trade goods, for signing the treaty;
- The U.S. government would also pay the Kickapoo, upon resettlement to their town on the Osage River in Missouri, an annuity of \$2,000 in silver annually for fifteen successive years in lieu of all former stipulations and in consideration of all prior cessions of land by the Kickapoo;
- The Kickapoo would confirm all former treaties with the U.S. government and relinquish all claims to every portion of their lands which may have been ceded by any other tribe/tribes, and every demand which the Kickapoo might have had, in

consequence of Article 2 of the treaty made with the Potawatomi tribe at St. Mary's on October 2, 1818;

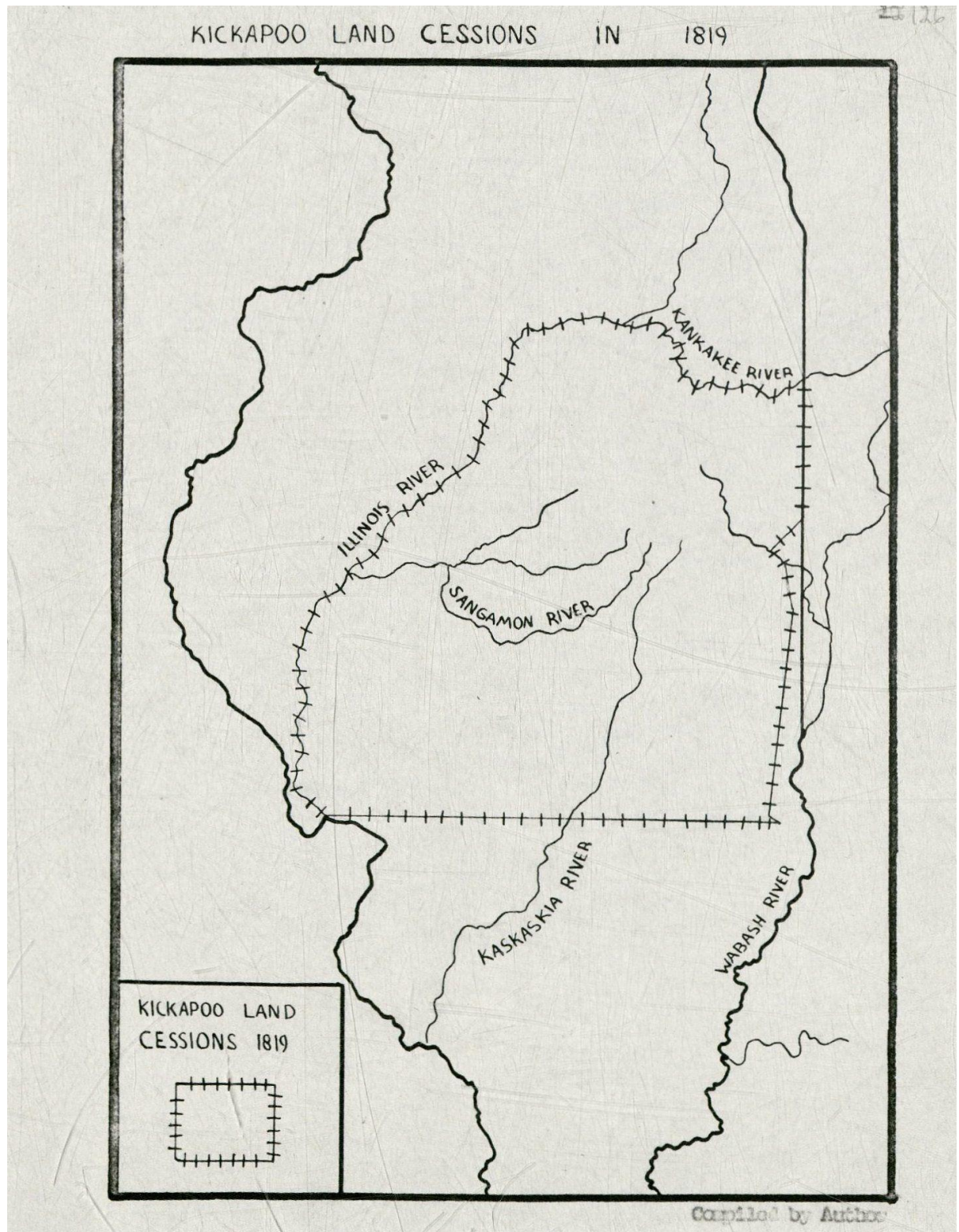
- The U.S. government would take the Kickapoo tribe under care and patronage and would afford protection against all persons whatever, provided the Kickapoo conform to U.S. laws, refrain from making war, or giving any insult/offense to any other Indian tribe or foreign nation without first obtained U.S. approbation and consent;
- The Kickapoo tribe acknowledges to be under and promise to continue under U.S. protection solely;
- The U.S. government would commit and provide two well-manned boats to facilitate the removal of Kickapoo property to their Missouri tract of land from the point on the Illinois River designated by the Kickapoo and a "judicious" U.S. citizen to accompany them in their passage through white settlements in transit to Missouri, their intended residence; and
- The U.S. government would be released from all prior treaty obligations.

Then, on August 30, 1819, just one month later, a delegation of the Vermilion/Wabash Band of the Kickapoo signed a quite similar treaty with Benjamin Parke, again acting as the U.S. negotiator near Vincennes, Indiana. Known as the Treaty of Fort Harrison, it was ratified and proclaimed on May 10, 1820. Therein, the parties agreed to the following provisions:

- The Kickapoo would cede and relinquish to the U.S. government all their lands on the Wabash River, or any of its waters;
- The U.S. government would immediately pay a bonus of \$3,000 in cash at a place to be determined to fully compensate the Kickapoo for this cession and all annuities or other claims against the U.S. by virtue of any pre-existing treaty with the U.S.

government and to facilitate their removal to lands designated for them on the Osage River in Missouri; and

- In addition, the U.S. government would pay the Kickapoo an annuity of \$2,000 in specie every year thereafter for ten years.



The Kickapoo land cessions in 1819. Source: R. David Edmunds, "A History of the Kickapoo Indians in Illinois from 1750-1834," p. 126.

As anticipated by U.S. officials, those two treaties were celebrated by settlers throughout the new state of Illinois. “One of the most important cessions of land in Illinois was that made by the Kickapoo in 1819, of the vast region lying north of the 39th parallel—a little north of the mouth of the Illinois River. Settlements had been crowding hard upon this region and many squatters anxiously awaiting the survey and sale of the land, especially that in the famous Sangamon Country.”¹²¹ Congratulating themselves on their presumed achievement, the U.S. Commissioners Chouteau and Stephenson wrote to the U.S. Secretary of War, John C. Calhoun, claiming that together the treaties had attained the removal of all of the Kickapoo in Illinois from “out of the reach of British influence one of the most warlike and enterprising tribes of Indians in North America; whose incursions during the late war (exceeding those of any other tribe) will be long remembered and deeply deplored.”¹²²

Once the two previously mentioned treaties were signed during the summer of 1819, an estimated 2,000 Kickapoo slowly migrated to their new reservation on the Osage River in southwest Missouri, which had been established pursuant to the Treaty of Edwardsville. But, two other dissident bands of an estimated 250 Kickapoo tribespeople each repudiated that treaty and held steadfastly to their encampments and ancestral lands.

¹²¹ Arthur C. Bogess, *The Settlement of Illinois, 1778-1830* (Chicago: Chicago Historical Society, 1908), 134.

¹²² Edmunds, “A History of the Kickapoo,” 124.

CHAPTER 13

FORCED REMOVAL FROM THE MIDWEST

As was the case with most treaties negotiated by various tribes with the U.S. government, not everyone within each respective tribe agreed. So it was among the different bands of the Kickapoo people. Consequently, implementing the terms of the treaties signed in 1819 in Edwardsville and Fort Harrison proved to be quite problematic. For instance, when the U.S. officer charged with supervising the removal of the Prairie Band of Kickapoo, Pascal Cerre, trekked to what was believed to be their largest encampment in late 1819, he discovered that they had already scattered themselves across the vast central and western Illinois prairie. Ultimately, he was able to induce Blue Eyes and a comparatively small number of his followers to set out for Missouri Territory. Still, he had to report that their removal was not uneventful. “Though they travelled slow and with the greatest repugnance (for they threatened to winter at every navigable stream we came to), I did notwithstanding get them to go as high as the Grand Batture—nine miles up the Osage River); where they told me, in the presence of three white persons ... [they] declined absolutely going on their land this season.”¹²³

When Blue Eyes and his followers passed through St. Louis, many residents turned out to gawk at the Kickapoo as they paraded by in their best tribal finery. One observer noted, “The most remarkable curiosity which met me here was the camp of the Kickapoo Indians who were now sojourning to conduct a treaty with the plenipotentiaries of the United States, whereby they renounced all their rights and claims to the lands of the Sangamon ... and in the entire state of Illinois. Their color is reddish-brown; their face irregular, often horribly colored with bright red paint; their hair is cut to a tuft upon the crown of the head and painted various colors. Very few

¹²³ Letter from Pascal Cerre to Auguste Chouteau, December 6, 1819, U.S. National Archives, Record Group #107, U.S. Secretary of War, Letters received, C219 (13), quoted in Great Lakes Indian Archives, Kickapoo File, 1819.

are clothed, in summer a woolen covering, in the winter a buffalo skin, is their only covering. They seem to be very fond of adornments, as of silver rings about the neck and arms. They likewise carry a shield before their breast.”¹²⁴

The following summer, another group of Kickapoo followed the same course. But in doing so, they sought in transit to obtain the full value of all that the U.S. government had promised them by treaty.¹²⁵ They filled 200 wagons with their personal belongings and were accompanied by some Shawnee and Delaware tribespeople. In St. Louis, it kept the ferries busy for 15 days to transport them across the Mississippi River. From beginning to end, it took them two and one-half months to complete their migration.¹²⁶

To strengthen their hands, U.S. officials negotiated two follow-on treaties with Kickapoo representatives during 1820. First, the Treaty of St. Louis was concluded and signed on July 19 by Auguste Chouteau and Benjamin Stephenson, acting as U.S. Commissioners, and counterpart Kickapoo tribal leaders. It served as a supplement to the Treaty of Edwardsville (Article 6) and altered the boundaries of the tract of land on the Osage River set aside for the Kickapoo in Missouri Territory. Second, the Treaty of Vincennes was concluded and signed by Benjamin Parke, acting as the U.S. Commissioner, and representatives of the Vermilion Band of the Kickapoo on September 5. It stipulated that the annuity owed by the U.S. government to this band, pursuant to the Treaty of Fort Harrison of 1819, would be paid in Kaskaskia, Illinois, near St. Louis and that an additional \$2,000 was to be advanced to these tribespeople to abandon their villages on the Wabash River and remove to Missouri Territory.

¹²⁴ Ferdinand Ernst, “Travels in Illinois in 1819,” *Transactions of the Illinois State Historical Society*, no. 8 (January 27-28, 1903): 157.

¹²⁵ Grant Foreman, *The Last Trek of the Indians* (Chicago: University of Chicago Press, 1946), 42.

¹²⁶ R. David Edmonds, “A History of the Kickapoo Indians in Illinois from 1750-1834,” M.A. thesis (Bloomington-Normal, Illinois: Illinois State University, 1966), 128.

Nevertheless, many of the Kickapoo renounced the previously mentioned treaties and remained resolute in their opposition to being forced to move to Missouri Territory, fearing rumors that U.S. government officials were plotting to murder them once they moved across the Mississippi River.

Some headed northward to live among the Sauk and Fox tribes in the Rock Island area, with whom they shared cultural practices. Others held out and took to burning the nearby prairie and timber and killing wholesale the game that fled before the fires they set sporadically across central and western Illinois.¹²⁷

According to the resident Indian Agent at the time, Thomas Forsythe, the remaining Kickapoo holdouts in Illinois reconstituted themselves in three identifiable bands: (1) a band scattered along the Sangamon River and led by Mecina; (2) a band settled along the Vermilion River, near present-day Danville and led by Kennekuk; and (3) a much smaller band previously mentioned who resided among the Sauk and Fox along the Rock River.¹²⁸ The adjoining Potawatomi and Winnebago urged the Kickapoo to stay in Illinois because those tribes were concerned that they, too, would soon be forced to leave their lands. Furthermore, on-going Kickapoo resistance was reinforced by troubling reports of widespread discontent and unrest from the Kickapoo tribespeople who had already removed to Missouri Territory.

The U.S. government was charged with providing inferior foodstuffs and other shoddy trade goods to the Kickapoo in Missouri and often they withheld promised treaty annuities, resulting in widespread food shortages and land swindling. In a letter to William Clark, the Indian Superintendent of Indian Affairs in St. Louis, Kickapoo leaders decried, “Father, what

¹²⁷ Ernst, “Travels in Illinois,” 150-165.

¹²⁸ Letter from Thomas Forsythe to William Clark, June 13, 1820, Forsythe Papers, Missouri Historical Society, quoted in Great Lakes Indian Archives, Kickapoo File, 1820.

you have said is not what Chouteau and Stephenson told us, he showed us a large mark for our lands, you have shown a small one, you have placed us in a small hole.”¹²⁹ Indeed, the promised annuity had been held up because the U.S. Senate delayed treaty ratification and then proceeded to order that the annuity be subdivided between the Kickapoo living in Missouri and those remaining in Illinois.

In practicality, however, that misguided, coercive attempt which had been intended to build pressure upon the remaining Kickapoo in Illinois only served to bolster their resolve to stay put throughout the next decade.

During the 1820s, Mecina’s band was the source of much of the continuing so-called ‘Indian trouble’ in Illinois. As just one example, they wreaked havoc in the area around Vandalia throughout 1822, threatening settlers and making off with much of their property.¹³⁰

Generally, they stoked unrest among white settlers, while maintaining their tribal customs and migration patterns. They stayed in central Illinois from spring through autumn, while spending their winters in the western part of the state near the Mississippi River. During the part of the year that they frequented central Illinois, Mecina’s band split into small groups and scattered throughout the area, planting gardens in the spring and hunting game—or sometimes settlers’ livestock—in the surrounding area. A group headed by a Winnebago married to a Kickapoo woman frequented the Beardstown area. Other groups hunted in Morgan County, visited the Peoria area, and camped near present-day Oakland, Illinois. Settlers in Champaign County drove a group of Kickapoo away after they girdled a grove of sugar maples during an

¹²⁹ Letter from Richard Graham to William Clark, October 3, 1822, National Archives, Record Group 107, U.S. Secretary of War, Letters received, C155, (16), quoted in Great Lakes Indian Archives, Kickapoo File, 1822.

¹³⁰ Edmunds, “A History,” 133.

early spring. Other reports placed Kickapoo encampments in Sangamon, Logan, and DeWitt counties.¹³¹

George Catlin, a well-known American painter, author, and traveler who specialized in portraits of Native Americans, encountered some of Mecina's band during this time or soon thereafter, near present-day Chicago. He reported they were "At present but a small tribe, numbering six or eight hundred, the remnant of a once numerous and warlike tribe. They are residing within the state of Illinois, near the south end of Lake Michigan and living in a poor and miserable condition, although they have one of the finest countries in the world. They have been reduced in numbers by whiskey and smallpox, and the game being destroyed in their country, and having little industry to work, they are exceedingly poor and dependent. In fact, there is very little inducement for them to build houses and cultivate their farms, for they own so large and so fine a tract of country, which is now completely surrounded by civilized settlements, that they know, from experience, they will soon be obliged to sell out their country for a trifle and move to the West."¹³²

Mecina's band was especially prominent in fledgling McLean County, returning to the pre-existing Grand Village of the Kickapoo and the associated old Kickapoo fort.¹³³ Adjacent to one of many old Kickapoo trails, a village near Old Town Timber was re-established. They encountered the first white settler in the area in 1826, one John Dawson, who built his cabin nearby.

¹³¹ Ibid.

¹³² George Catlin, *Letters and Notes on the Manners, Customs, and Conditions of the North American Indian* (London: Constable and Company, Ltd., 1844), 97.

¹³³ William B. Brigham, "The Grand Kickapoo Village and Associated Fort in the Illinois Wilderness," *Indian Mounds and Villages in Illinois*, Illinois Archaeological Survey, no. 2 (June 1960): 95.

According to local records, Thomas Orendorff, the first white settler near Blooming Grove (the site of present-day Bloomington-Normal), was warned by Mecina to leave the area. He ignored the warning and proceeded to build a cabin, declaring that the Kickapoo had sold the land to the U.S. government.¹³⁴ Despite the cross-cultural tensions, Mrs. Delilah Mullins-Evans, an early white resident of McLean County, reported that the Kickapoo forged trading relations. Outlying Kickapoo villages were located near Pleasant Hill and Dry Grove among other sites and some early white settlers began to be allowed to observe traditional tribal ceremonial dances.¹³⁵

Nevertheless, Mecina continued to vigorously oppose removal. In 1825, he refused to participate in a peace conference between selected leaders of the Osage and Kickapoo tribes, declaring that the Kickapoo representatives who had signed the Treaty of Edwardsville had no right to sign for his band and asserting that he alone was the head chief of all the Kickapoo in central Illinois.¹³⁶ Concurrently, Kickapoo warriors continued their depredations against isolated settlers across central Illinois. They concentrated their efforts on killing livestock and stealing horses which they sold to the Potawatomi and Sauk to the north.

The raiding prompted increasing settler complaints to Clark. He described one such complaint as follows: "During the last week a written communication has been received by me purporting to be signed by forty citizens of the north fork of the Sangamon in this state. They proffer a complaint against a band of Kickapoo Indians who they say are infesting their neighborhood, killing their hogs before their eyes and in defiance of the settlers, declaring the land is theirs and that they will fight before they leave it. That in two moons more the great man

¹³⁴ Letter from Milo Custer to John Mosquequa, McLean County Historical Society, File 319, July 9, 1906.

¹³⁵ Edmunds, "A History," 132.

¹³⁶ Letter from William Clark to John C. Calhoun, St. Louis, January 22, 1825, National Archives, Record Group 75, U.S. Secretary of War, in Great Lakes Indian Archives Letters Received, Enclosure (3) quoted Indian Archives, Kickapoo File.

above will rain down Kickapoos enough to cover all that land. If I am not mistaken, the Kickapoos have stipulated to move west of the Mississippi.”¹³⁷ In response, Clark sent a fresh message to Mecina informing the chief that he was receiving mounting settler complaints and that the U.S. government could not fully safeguard tribal communities against possible retaliatory actions being taken by disgruntled settlers. He also bluntly warned that continued Kickapoo intransigence was increasingly placing their women and children in danger and that they should remove to Missouri Territory before U.S. army soldiers were sent to drive them out of their villages.

To the east, a residual band of approximately 500 Kickapoo plus a few people from other tribes in the region resisted removal from the Wabash region and settled on the Vermilion River in eastern Illinois. Their leader was a charismatic Kickapoo holy man named Kennekuk, who preached a combination of traditional tribal spiritual practices with some of the tenets of Christianity.¹³⁸

[SIDEBAR: Kennekuk, the Kickapoo Prophet: Passive, Nonviolent Resister before His Time]

Rather than passively move to Missouri Territory, the Kickapoo tribe went to war against Euro-American invaders and settlers and negotiated multiple peace treaties with the U.S. government, but to no avail. When all else failed, many simply withdrew and renounced contact with white people altogether. Nothing seemed to work, not even a concerted effort at peaceful

¹³⁷ Clarence W. Alford and Evarts B. Greene, ed., *Governors' Letter Book, 1813-1834, Collections of the Illinois State Historical Library*, vol. IV (Springfield: Illinois State Historical Society, 1909), 91-92.

¹³⁸ Gilbert Garraghan, *The Jesuits of the Middle United States* (New York: American Press, 1938), 387.

*coexistence in east-central Illinois led by Kennekuk, the Kickapoo Prophet, among the Vermilion band of the tribe.*¹³⁹

Kennekuk was described as “a tall bony Indian with a keen black eye, and a face beaming with intelligence. ... There is an energy of character about him, which gives much weight to his words.”¹⁴⁰ As a skilled orator, he became a renowned spiritual and medicine man. He traveled widely throughout east central Illinois and led a community of followers, whose belief system centered on nonviolence, passive resistance to removal and resettlement, abstinence from alcohol, and meditation. He favored moderate, nonviolent acculturation, preaching coexistence with white westward expansion and a settled agricultural life. His tribal community’s religious outlook embodied a hybrid type of Christian Evangelism combined with traditional Native beliefs. His religious meetings often attracted large numbers of nearby settlers and he even occasionally preached at white religious services. But his unorthodox views and religious doctrine also caused him and his followers to suffer derision and alienation from some of the other Kickapoo bands.

Even though he refused to support the Black Hawk War of 1832 or to encourage any of his followers to join Kickapoo warriors from other bands in that fighting—just as he had refrained from hostilities during the War of 1812—his community came under mounting pressure to abandon their encampment. When settlers in the Shelbyville area logged complaints against them with state government officials, Kennekuk responded, “If any of the principal men of Shelby County or any other county in the state, can prove that any of my people have killed any of their stock or that of any other person or persons, I will deliver up to the whites, the offender to be

¹³⁹ Joseph B. Herring, *Kennekuk, the Kickapoo Prophet* (Lawrence, Kansas: University Press of Kansas, 1988), 7-24.

¹⁴⁰ Edmunds, “A History,” 143.

punished. ... The people who have written to the governor of this State such complaints as I have just now heard, do not hold such books as this I now have in my hand (a Bible). It teaches me not to lie, not to steal, not to get drunk, nor to go to war and fight: for if they did, they would not send such complaints to their Governor.¹⁴¹ Nevertheless, he and his followers were forced to leave behind the friends they had made among white settlers in the local area and to go into exile with the rest of the Kickapoo tribe first in Missouri and then Kansas.¹⁴² He died on the reservation in Kansas in 1852. Some Kickapoo descendants still follow the tenets of his preaching.¹⁴³

¹⁴¹ Speech by Kennekuk at the Kickapoo Town, August 4, 1831, Black Hawk Folder, Executive File, Illinois State Library, quoted in Great Lakes Indian Archives, Kickapoo File, 1831.

¹⁴² *The Fairbury Blade*; Fairbury, Illinois, unknown date.

¹⁴³ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman: University of Oklahoma, 1963), 109-118.



Courtesy The Smithsonian Institution

KEE-AN-NE-KUK (KENNEKUK), the Prophet, in an attitude of prayer.
From a painting by George Catlin.

Kennekuk, last of the Kickapoo tribal leaders to leave Illinois. Source: Letters and Notes on the Manners, Customs, and Conditions of North American Indians, George Catlin, p. 95.

Kennekuk also opposed removal from Illinois, but he and his band pursued a somewhat different and less bellicose approach to holding out. He advocated building peaceful relations with his neighboring settlers, while counseling sobriety among his followers and the rejection of on-going intrigue by British agents intended to whip up anti-American sentiment. Since the surrounding area was full of game, and the rich bottom land near their village yielded plentiful corn, this band was able to cultivate good cross-cultural relations. They also traded extensively with non-Natives in the nearby stockade and trading post in Danville.¹⁴⁴

What they did not understand, however, was that by 1828, Ninian Edwards, Governor of Illinois, was intent on securing the prompt and complete removal of both Mecina's band as well as that led by Kennekuk. Throughout 1828 and 1829, the Kickapoo were told by Edwards that their removal was imperative. That directive was echoed by William Clark, acting in his federal capacity as Superintendent of Indian Affairs. In fact, Clark summoned Kickapoo delegations to St. Louis to hear Missouri once again described as a "land of milk and honey" and dispatched Richard Graham, an Indian Agent acting on behalf of the U.S. government, to deliver the same message of enticement to scattered members of Mecina's band.¹⁴⁵ Using classic carrot-and-stick tactics, federal officials also bluntly informed the troublesome Kickapoo that if they did not comply, their treaty annuities would be cut off, they would be officially declared enemies of the U.S. government, and soldiers would be sent to remove them in chains, if necessary.¹⁴⁶

Reluctantly, Mecina and his band relented and pledged to leave Illinois for Missouri by May 25, 1829. Kennekuk and his band were scheduled to follow suit on a later date.¹⁴⁷

¹⁴⁴ Edmunds, "A History," 135.

¹⁴⁵ Gibson, *The Kickapoos*, 85.

¹⁴⁶ Letter by Ninian Edwards to William Clark, Belleville, June 30, 1828, in National Archives, Record Group 75, St. Louis Superintendency, Letters received, roll 748, quoted in Great Lakes Indian Archives, Kickapoo File, 1828.

¹⁴⁷ Edmunds, "A History," 136.

As it happened, the small band of Kickapoo who migrated northward to the Rock Island area during the War of 1812 remained thereafter and played an important role in delaying the removal of the bands led by Mecina and Kennekuk. Cultivating their cultural ties with the Sauk and Fox tribes, this group of an estimated two hundred Kickapoo were trading at Prairie Du Chien during the winter of 1817-1818 and had established their own village along the Rock River by 1820.¹⁴⁸

By the late 1820s, federal officials in northern Illinois reported growing unrest among the Sauk. This hostility, especially evident among the followers of the Sauk war chief Black Hawk, was fueled by the steady encroachment of white settlement and spilled over to some of the Fox and Kickapoo warriors. But, none of these three tribes took part in the abortive Winnebago Uprising led by Red Bird, which sought to spark a regional Indian war in 1827.¹⁴⁹ Anxiety heightened among settlers during 1828 amidst rumors of a new intertribal confederacy shaping up among the Chippewa, Kickapoo, Sauk, Fox, Winnebago, Menominee, and Potawatomi along the Illinois-Wisconsin border, but it never materialized.¹⁵⁰

Troublesome white settlers and miners in the region could not leave well enough alone. Drawn to the lead mines and their potential for commercial development along the Fever River in the present-day Galena area, they attacked the largest Sauk village nearby while many of the Sauk men and their Kickapoo allies were away hunting in northwestern Indiana. Upon their return to their homelands, Sauk warriors sought revenge and reputedly targeted a family in the area, but they were restrained by the Kickapoo for the time being.¹⁵¹

¹⁴⁸ James H. Lockwood, "Early Times and Events in Wisconsin," Second Annual Report and Collections of the State Historical Society of Wisconsin (1855), 131.

¹⁴⁹ Ray Allen Billington, *Westward Expansion* (New York: The Macmillan Company, 1960), 298.

¹⁵⁰ Edmunds, "A History," 137.

¹⁵¹ *Ibid.*, 138.

By 1830, however, the Kickapoo were confronted by a new dilemma when their Sauk and Fox allies split into two rival factions. Keokuk and his Sauk followers decided to cooperate with U.S. officials, abandon the Rock Island area, remove across the Mississippi River, and resettle in present-day Iowa. But the other Sauk faction, led by Black Hawk, vowed to resist and stand their ground in their ancestral homelands. The Kickapoo aligned themselves with Black Hawk's faction, sending warriors to accompany Black Hawk and his warriors in a raid against the Sioux in Minnesota in June 1830. They also sent a recruitment appeal to Mecina's band in central Illinois to enlist in the armed resistance. Over Mecina's opposition, a younger war chief named Panoahah led an estimated force of 100 Kickapoo warriors northward from central Illinois to join in the fight. In response, Mecina moved and joined Kennekuk's band on the Vermilion River.¹⁵²

The anxious, newly elected Governor of Illinois, John Reynolds, decided to take pre-emptive military action. He mobilized 1,500 militiamen and ordered them to march on Black Hawk's home village. In response, Black Hawk made a calculated decision during the summer of 1831 to lead his followers across the Mississippi River. The existing historical record is unclear as to whether Kickapoo joined in this move and, if so, how many. The U.S. government, however, officially deemed them to be allies of Black Hawk. By some accounts, the Kickapoo in northern Illinois who did not accompany Black Hawk's faction at this time encamped with a nearby Winnebago village along the Rock River or returned to central Illinois to renew raiding against the growing population of white settlers.¹⁵³

If there were Kickapoo with Black Hawk's band, they, too, suffered through a miserable winter in Iowa Territory. They resettled too late to plant any corn. They had poor shelter and

¹⁵² Gibson, *The Kickapoos*, 86-87.

¹⁵³ William Hagan, *The Sac and Fox Indians* (Norman: University of Oklahoma Press, 1958), 7.

struggled to find enough game and other food to survive. Not surprisingly, Black Hawk and his band, estimated at 1,000 tribespeople, crossed back over the Mississippi River and returned to their ancestral homelands in northwestern Illinois in April 1832. Because there were many women, children, and elderly in the migrating band, Black Hawk mistakenly presumed that federal and state authorities would recognize that he and his band had no hostile intent. As it turned out, they were tragically mistaken.

White settlers in the Rock Island region panicked and immediately appealed for military protection. In response, the overall U.S. Army commander in the region, Henry Atkinson, presumed the worst about Black Hawk's intentions and wrote to Governor Reynolds requesting volunteers.¹⁵⁴ Thirteen hundred Illinois militiamen quickly responded to the call. By May 1, 1832, their ranks had increased to eighteen hundred, all based at Fort Armstrong near present-day Quad Cities in Illinois and Iowa.

Uncertainty persists among military historians and other scholars about what happened next. Unbeknownst to Atkinson, Governor Reynolds retained directed command of a detachment of approximately 275 militiamen under the leadership of Major Isiah Stillman and David Bailey. This smaller force was ordered to march toward Black Hawk's band and encamped on Sycamore/Old Man's Creek, a tributary to the Rock River, on May 14.¹⁵⁵ When Black Hawk's scouts alerted him of the nearby force of militiamen, he reputedly dispatched three tribal emissaries under a flag of parley with the intent of negotiating peace terms. When edgy militiamen on the scene apparently became aware of Sauk scouts in the surrounding hills observing the proceedings, one of the emissaries was killed and the other two fled. Militiamen pursued the scouts and killed a few of them, but others alerted Black Hawk as to what had

¹⁵⁴ Edmunds, "A History," 140.

¹⁵⁵ Scott D. Dyar, "Stillman's Run: Militia's Foulest Hour," *Military History* (March, 2006): 38-44, 72.

transpired. A skirmish line of tribal warriors that included some Kickapoo was established and the following clash known as the Battle of Stillman's Run/Battle of Sycamore Old Man's Creek ensued.¹⁵⁶ In what marked the opening armed conflict in Black Hawk's War, twelve militiamen were killed and the others retreated from the chaotic battlefield to re-join the main force of U.S. army regulars and militiamen.

Subsequently, Black Hawk's band headed northward into present-day Wisconsin, raiding the surrounding countryside for the next ten weeks. There is a scholarly consensus that a substantial number of Kickapoo warriors, in addition to their Sauk and Fox tribal counterparts, were involved in these war parties. However, before the end of Black Hawk's War, the Kickapoo who were involved left the hostilities, crossed over the Mississippi River, and headed to the Kickapoo villages on the Osage River in Missouri Territory.¹⁵⁷

It is also worth noting that the Kickapoo involvement in Black Hawk's War also brought serious repercussions for the previously mentioned bands of Kickapoo holdouts living on the prairie in central Illinois and along the Vermilion River. Heightened fear, anxiety, and suspicion of their Kickapoo neighbors spread quickly and widely among white settlers. In present-day McLean County, a blockhouse was built near Pleasant Hill and a small stockade at the Henline Settlement.

In present-day Livingston County, Sauk and Fox recruiters for Black Hawk's War reportedly visited a sizeable Kickapoo and Potawatomi encampment in Oliver's Grove. While those tribal messengers from the north were unsuccessful, their visit helped prompt a decision among the local settlers to erect a new blockhouse on land owned by J.B. Dawson. In Tazewell

¹⁵⁶ James Lewis, "The Black Hawk War of 1832," Abraham Lincoln Digitization Project, Northern Illinois University, retrieved November 10, 2018.

¹⁵⁷ Gibson, *The Kickapoos*, 88.

County, settlers in Pekin became so fearful of a nearby village of 100 Kickapoo and Delaware that they petitioned the Governor of Illinois to send twelve hundred soldiers to drive away the Indians.¹⁵⁸

According to one local historian, there were three related casualties, two killed and one wounded, in central Illinois at this time. When a small, armed group of settlers decided to drive off a small number of Kickapoo near Old Timber in present-day McLean County, one fleeing Kickapoo man was killed after he wounded a settler named Downey. A settler named McGee was also killed along the Mackinaw River in present-day Woodford County in further pursuit of this skirmish.¹⁵⁹

The most severe and lasting consequence during 1832 for the Kickapoo resulted from determined resolve on the part of federal and state officials to compel the removal of all remaining Kickapoo from Illinois, once and for all, and from the Missouri Territory, too. The federal design was to consolidate the Kickapoo in one place. However, that would not be an easy task. In early 1832, it was estimated there were 2,000 Kickapoo in total, but they were already scattered from Illinois to Mexico as follows: 350 people in Kennekuk's band in eastern Illinois; 400 people in Kishko's band in southwestern Missouri; 900 people in multiple bands roaming in Indian Territory (present-day Oklahoma under the sway of Pecan and Black Buffalo); and 300 people in Mosqua's band in what was then the Mexican province of Texas on the Sabine River.

Nevertheless, Kickapoo holdouts were compelled once again to return to the negotiating table. Acting as U.S. Commissioners, William Clark, Frank J. Allen, and Nathan Kouns sat down with Kickapoo representatives of Kennekuk's and Kishko's bands at Castor Hill in St. Louis County, Missouri, to hash out the terms of the complete and permanent removal of all of the

¹⁵⁸ Edmunds, "A History," 141-142.

¹⁵⁹ Milo Custer, "Local Indian Traditions," McLean County Historical Society, file 320.

remaining Kickapoo people in Illinois. The Treaty of Castor Hill was concluded and signed on October 24, 1832. It was subsequently ratified and proclaimed on February 13, 1833. Therein.

the parties agreed to the following key provisions:

- The Kickapoo ceded to the U.S. government all lands assigned to them by the Treaty of Edwardsville and all other land claims in Missouri, thus accepting permanent removal from Illinois and Missouri;
- The Kickapoo agreed to move with as little delay as possible to their new land;
- The U.S. government granted the Kickapoo tribe a county in which to reside southwest of the Missouri River in the vicinity of Fort Leavenworth to serve as their permanent place of residence for as long as they remain a tribe;
- At the request of the Kickapoo, the U.S. government agreed that a deputation of Kickapoo shall be accompanied by at least one U.S. Commissioner and sent to view lands assigned to them and they shall be empowered to change boundary lines to make a selection of up to 1,200-square-miles for a newly-established reservation; and
- The U.S. government committed to running and marking out fixed boundaries of the newly assigned land to the Kickapoo within 3 years from date of ratification of this treaty;

Furthermore, the U.S. government agreed to:

- Furnish assistance to the Kickapoo while they removed to newly assigned lands and to supply the tribe with one year's provisions after their arrival on their new land;
- Pay an annuity of \$18,000 for one year to the Kickapoo for cession of land in this treaty, \$12,000 of which at the urgent request of the Kickapoo, to be entrusted to the Superintendent of Indian Affairs at St. Louis and applied to tribal debts and pursuant

- to a payment scheduled to be provided by the Kickapoo. Any remaining balance to be returned to the tribe for use and benefit;
- Pay to the Kickapoo an annuity of \$5,000 a year in merchandise or money at their option for a period of 19 years, starting with the second year after ratification of this treaty;
 - Pay \$1,000 a year for 5 years for the support of a blacksmith and strikers, purchase of iron, steel, and other tools for the use of the Kickapoo on the land assigned to them;
 - Pay \$3,700 for erection of a mill and church for the Kickapoo on the land assigned to them;
 - Pay \$500 a year for 10 years for support of a school, books, and related educational expenses for the Kickapoo on the lands assigned to them;
 - Pay \$3,000 for farming utensils for the Kickapoo to use on their land;
 - Pay \$4,000 for labor and improvements on the land assigned to the Kickapoo;
 - Pay \$4,000 in cattle, hogs, and other stock to be delivered to the Kickapoo on their land; and,
 - Pay \$6,000 in merchandise and cash for the use and benefit of the tribe, which, when combined with several other stipulations in this treaty, shall be considered full compensation for the land relinquished by the Kickapoo.

Once the Treaty of Castor Hill was signed, the die was cast. Collectively resigned to their fate, Kennekuk led his band to a new reservation in Brown County, Kansas, during 1833-1834, thus marking the end of the Kickapoo living presence in Illinois. They had been the last holdouts in what had been the Kickapoo homelands in the Midwest for 130 years, which was subsequently developed into one of the most valuable and productive agricultural regions in the U.S. By 1865,

however, the other Kickapoo bands became disillusioned with their lives in Kansas, too, and migrated farther southward.

CHAPTER 14

THE KICKAPOO DIASPORA

The Kickapoo people sensed from their first contact with French Jesuit priests, trappers, and traders in the mid-seventeenth century that the arrival of the Euro-Americans constituted an existential threat to their way of living and being. Indeed, their premonitions proved to be the case, looking east from Indian Country. They experienced systematic and recurring displacement that moved them farther and farther away from their ancestral homelands. As a result of incessant raiding and inter-tribal conflict with the Iroquois Confederacy, they were pushed westward from their lands in present-day southeastern Michigan and northwestern Ohio to east central Wisconsin. Then, they migrated southward in the mid-eighteenth century from the Great Lakes region on to the Great Prairie of Illinois Country, which had previously been inhabited by the tribes of the Illiniwek Confederacy. Finally, by the third decade of the nineteenth century, the U.S. government forced them off the Algonquin Range altogether, compelling them to move westward across the Mississippi River and on to the Great Plains to a newly assigned reservation in northeastern Kansas. This came five years *before* the Cherokee were forcibly marched to Indian Country in present-day Oklahoma on the better-known “Trail of Tears” in 1838. Ultimately, the most traditional bands of the Kickapoo people had to move and resettle outside of the U.S. in the Province of Coahuila in northeastern Mexico to preserve their preferred way of life.¹⁶⁰

Not surprisingly, each migration took a serious toll on tribal unity, resulting in cascading cultural losses, compounding social fragmentation, and growing factionalism among different bands of this proud and fiercely independent tribe. What unfolded was a long-running diaspora

¹⁶⁰ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman: University of Oklahoma Press, 1963), 37.

that continued for decades, well into the 1980s, which was fueled by compound fracturing among the uprooted and besieged Kickapoo. Differing factions have resettled in Kansas, Mexico, Oklahoma, and Texas, while additional Kickapoo live more solitary lives in cities and towns across the U.S. The scattering and complicated resettlement saga is best understood by examining the nineteenth and twentieth century histories of four main tribal subgroups respectively: the Kansas (Northern) Kickapoo and Mexican Kickapoo, discussed in this chapter, and the Oklahoma (Southern) Kickapoo, discussed in chapter 15, and the Texas (Eagle Pass) Kickapoo, discussed in Chapter 22.

The Kansas Kickapoo

This subgroup also became identified by non-Natives as the Northern Kickapoo. Internally, they were divided between Kennekuk's band and Kishko's band.¹⁶¹ The emergent fault lines revealed fundamentally different choices, respectively, between peacemakers versus warmakers and accommodationists versus traditionalists. Kennekuk's band became known as the most adaptive to the "white man's road." Comparatively, this band embraced non-Native agricultural methods, educational practices, temperance, and other moral standards. They also were more resigned, if not friendlier, toward dealings with the U.S. government's evolving Indian policies.

Meanwhile, Kishko's band rejected settled farming as a way of life and sought to continue to rely upon more traditional tribal ways of hunting, gathering, trading, and child-rearing. They were also upset that the size of the Kickapoo land domain had been shrunk by the U.S. government from 2,048,000 acres in Missouri to 768,000 acres in Kansas in the course of that most recent removal.

¹⁶¹ Ibid., 109-113.

Troubled by that schism, Elbert Herring, Commissioner of the Bureau of Indian Affairs (BIA), directed William Clark, Superintendent of Indian Affairs in St. Louis, to dispatch U.S. Commissioner E.A. Ellsworth to council with all the Northern Kickapoo at Fort Leavenworth in 1833.¹⁶² This directive came after the BIA was established under the jurisdiction of the U.S. War Department in 1824. The objective of U.S. officials was to win over Kishko and other recalcitrants, thus uniting both bands in appreciation of the presumed beneficence of the federal government. Ellsworth was also authorized to warn the Northern Kickapoo that U.S. President Andrew Jackson would simply not accept the tribe's continued divisiveness.

After several council meetings, Ellsworth called the question in a final council gathering in November 1833. Kishko and his followers, who had grown increasingly distrustful of all federal officials by then, denounced the land grab and sought to move farther away literally and figuratively from an over-reaching federal government. Kishko and a smaller group of his followers bolted southward for Indian Territory and Pashishi assumed leadership among those in the band who remained.¹⁶³ Meanwhile, Kennekuk's band accepted Ellsworth's forewarning and agreed to the boundaries prescribed for their new reservation. As a result, they were increasingly able to take greater advantage of the terms of the 1832 Treaty of Castor Hill by default. Going forward, the favored position of Kennekuk's band became an ongoing source of festering tension and internal unrest among the Kickapoo, especially whenever dissident factions to the south temporarily returned to the Kansas reservation to collect their share of treaty benefits.

Between 1836 and 1837, Kennekuk consolidated his influence and functioned largely unchallenged as the *de facto* tribal leader of the Northern Kickapoo within the Kansas

¹⁶² *Ibid.*, 111.

¹⁶³ *Ibid.*, 112-113.

reservation. While Pashishi and his estimated two hundred followers continued to resist, dance, and practice their traditional ways and ceremonies, they, too, relented. Under the threat of U.S. military intervention, they left the Kansas reservation during 1837, moving to the Red River area in Texas.¹⁶⁴ Consequently, Kennekuk was further empowered and recognized as the official leader and spokesman of the Northern Kickapoo remaining on the Kansas reservation in the eyes of the local BIA agent and his superiors.

In 1838, Kennekuk stepped up his missionary work among neighboring tribes. He garnered a growing number of converts among the Potawatomi and others, who, in turn, moved to the Kickapoo reservation and intermarried. By 1844, he began petitioning the BIA commissioner to allow the formal unification of new converts into one officially recognized tribe. However, once the U.S. government approved his unification design, altogether new centrifugal disputes were set in motion among the Kickapoo over pre-existing treaty and annuity rights. More specifically, federal officials recognized the Northern Kickapoo-Potawatomi integration in Kansas into one tribal nation in 1851, thus affording equal claims jointly and henceforth in land resources, treaty rights, and annuity benefits.¹⁶⁵ Predictably, the Southern Kickapoo were incensed by what they perceived as having been supplanted in what the U.S. government still owed them.

By the mid eighteenth century, if Kennekuk and the Northern Kickapoo thought they would be left alone to settle into a peaceful co-existence of sorts on their Kansas reservation, they were tragically mistaken. The 1850s brought a series of crooked land deals and swindles in

¹⁶⁴ Ibid., 115-117.

¹⁶⁵ Ibid., 118.

which the Northern Kickapoo were badly misled by a parade of conniving BIA agents, railroad executives, bankers, and politicians who became known as the Kansas Land Sharks.¹⁶⁶

Kennekuk died in 1853 and his son, Pakahkak, who became known as John Kennekuk among non-Natives, assumed his leadership of the Northern Kickapoo. He immediately confronted the growing challenge of Euro-American settlers squatting on fertile lands within the Kickapoo reservation. His appeal for U.S. military assistance from nearby Fort Leavenworth to remove squatters and intruders fell on deaf ears. Accordingly, he led a tribal delegation consisting of himself, Kapioma, Nohawat, Peshagon, and Kewisahtuk to Washington, D.C. with BIA Commissioner George W. Mannypenny to underscore their concerns about the de facto diminution of their reservation.¹⁶⁷ In response, U.S. officials were dispatched to Kansas to negotiate an uneasy truce between non-Native squatters and the Northern Kickapoo. However, at the same time, those same officials began laying the groundwork in councils with the tribe for liquidating aboriginal title on land within the reservation, thus greasing the skids for a precursor of what was to later become the federal policy of allotment of Indian lands within reservations nationwide.

The establishment of the Kansas Territory by the U.S. government in 1854 set the stage for insurmountable pressure by white land speculators and settlers who sought to gain access and control of the choicest land in the territory (including within the Kickapoo reservation) and have much of it declared surplus and open for white ownership and development. Between May 18 and July 17 of that year, yet another treaty—the Northern Kickapoo Treaty of 1854—was signed, ratified, and proclaimed. Tribal representatives were pressured into ceding an astonishing 81

¹⁶⁶ Ibid., 124.

¹⁶⁷ Ibid., 119.

percent of the reservation land, or 618,000 acres, to the U.S. government, leaving only 150,000 acres for the Northern Kickapoo on the Grasshopper River, having originally been reserved for the tribe under the provisions of the 1832 Treaty of Castor Hill. Equally troubling, other key provisions of that treaty opened the door to subsequent railroad development across the reservation and more coercive allotment of remaining tribal lands. More specifically, a right-of-way was authorized for one or more railroad companies to lay track across the heart of the reservation. Furthermore, the U.S. president was awarded on-going discretionary authority to order the survey of additional tribal lands for the purpose of dividing and assigning more allotments in fee to individual Indian families in amounts to be determined by executive fiat.

In exchange, the U.S. government agreed to pay \$300,000 to the Northern Kickapoo over the course of twenty years. One-third of that total amount was to be invested in securities by non-Native advisors, while the rest of the funds were to be spent on the construction of public buildings and houses on the reservation and for the purchase of livestock, tools, farming implements, grain seed, and other benefits for tribal members.

Unfortunate geography spelled more trouble. The ink was barely dry on the Treaty of 1854 before a cabal of non-Native land speculators, bankers, and railroad promoters, aided by BIA agents and U.S. senators, set about conning the Northern Kickapoo tribal council out of what remained of tribal land and treaty funds. More specifically, the greatly diminished Northern Kickapoo reservation de facto was situated on the eastern terminus of the main migration routes and transportation arteries for the fast-developing American West. All three of the main overland trails—the northern branch of the Santa Fe Trail, California Trail, and Oregon Trail—crisscrossed Kickapoo land. In addition, a burgeoning stagecoach and Pony Express route was anchored in nearby St. Joseph, Missouri, as well as a busy overland freighting and stagecoach

line owned and operated by the Atchison family. Finally, the military route from Fort Leavenworth to Laramie in present-day Wyoming also crossed tribal lands. Not surprisingly, all of those unwanted intrusions prompted more Northern Kickapoo to leave the reservation and head southward to Indian Territory.

A sleezy, ruthless grifter named William P. Badger emerged as the mastermind of the Kansas Land Sharks, who would bedevil the Northern Kickapoo for many years to come.¹⁶⁸ First, he set himself up to charge exorbitant prices for much-needed supplies in trade with passing wagon trains and tribespeople. Next, he positioned himself as a key, local go-between for tribal representatives of the Northern Kickapoo and powerful non-Native outsiders who sought to acquire still more of the reservation land by hook or by crook. By 1858, he pulled strings and finagled his appointment to serve as the official local BIA agent for the Northern Kickapoo, despite having aroused some local opposition and being tainted by the findings of a Kansas Territorial legislative investigation.

Functioning as the proverbial fox in the henhouse, Badger indulged in egregious double-dealing, capitalizing on his public office and profiteering from private franchises on heavily traveled roads through the Kickapoo reservation. Simultaneously, he spent much of his time angling to induce even more of the Northern Kickapoo to drop their opposition and accept allotments in severalty. He also blatantly lied to BIA Commissioner Charles E. Mix and other federal officials in Washington, D.C., misleading them to believe that the Northern Kickapoo, as a whole, were ready to council anew and accept individual allotments. Consequently, he was authorized to negotiate with Northern Kickapoo tribal leaders, subject to three stipulations: (1) the tribe was to bear the cost of necessary land surveys and corresponding new allotments; (2) 80

¹⁶⁸ Ibid., 121-123.

acres was to be allotted to each family, with the remainder of tribal land on the reservation to be held in collective reserve; and (3) the rest of the reserved tribal lands were to be used by the BIA to remove the roaming Southern Kickapoo from Indian Territory and concentrate them in Kansas.

Nobody within the BIA seemed to ask themselves a key question: Why would more traditional Southern Kickapoo willingly give up wide-ranging hunting and gathering in Indian Country and Mexico to being confined on the Kansas reservation and live a sedentary farming life? Furthermore, the plotting Kansas Land Sharks were undeterred in their development designs. They pressured to allot 40 acres apiece instead for an indeterminate number of returning Southern Kickapoo at some later date that could only be validated by continuous residence within one year of ratification of a newly planned allotment treaty.

In 1859, BIA agent Badger schemed for a new round of land deals to enable the further expansion of railroad routes to be built across the downsized Kickapoo reservation. Before losing his BIA patronage job as a result of the Republican victory in the 1860 presidential election, he boldly urged the BIA commissioner to approve additional allotments without any further consultation with the tribe. He sought to short-circuit growing opposition among the Northern Kickapoo under the leadership of Nohawat, who reminded his followers that the policy of allotments was heresy to the traditional tribal belief which held that the Great Spirit had ordained communal ownership of their lands. Thus, the Northern Kickapoo became embroiled in a very harmful, six-year dispute with the federal government.¹⁶⁹

Meanwhile, the greedy and shameless Kansas Land Sharks used every trick in the book to methodically appropriate all but a very small portion of the Kickapoo reservation. For

¹⁶⁹ Ibid., 127-129.

example, Charles B. Keith (William Badger's brother-in-law, a railroad crony, and an aggressive allotment proponent) ominously secured appointment in 1861 as the new local BIA agent. This new fox in the henhouse proved to be even more direct and effective than Badger in exploiting the Northern Kickapoo. Relying upon the allotment clause in the Northern Kickapoo Treaty of 1854, he proceeded to allot and assign land tracts to an additional 350 individual tribal members, thereby freeing up most of the remaining 150,000 acres on the reservation to be declared surplus and promptly sold to non-Native land speculators and settlers.

In early 1861, Kansas was also admitted to the Union and Samuel C. Pomeroy was elected to serve as one of the new thirty-fourth state's two U.S. senators. Not coincidentally, Pomeroy had many pre-existing private business interests in Kansas, including having been the principal organizer of Atchison and Pike's Peak Railroad which ran across the reservation, and having served as the company's president since 1859.

Controversy and trouble enveloped the Northern Kickapoo between 1862 and 1866, during which time they were defrauded of nearly their entire reservation. The thinly disguised and carefully orchestrated frontier robbery was aided and abetted by the BIA and other federal officials. More specifically, in June 1862, Keith conned the BIA commissioner in Washington, D.C. into believing that he had negotiated and secured the approval of a new allotment treaty by tribal leaders in good faith. Known as the Northern Kickapoo Allotment Treaty of 1862, it included the following key provisions:

- The Kansas reservation of approximately 150,000 acres to be subdivided, surveyed, and allotted with each tribal leader receiving 320 acres apiece; each head of family receiving 160 acres apiece; all other tribal members receiving 40 acres apiece; and the remainder of

the reservation land declared surplus and sold to the Atchison and Pike's Peak Railroad at the price of \$1.25 per acre;

- Non-Indian purchasers of land tracts for the railroad company shall be entitled to patents for said lands, provided they make the required payments to the U.S. government in trust for the tribe;
- Land patents in fee simple to be awarded tribal members accepting allotments;
- Allottees to relinquish all rights to any land assigned to others in severalty or to any tribal lands held in common and to the proceeds of sales of any remaining tribal lands;
- Allottees to renounce tribal membership, take an oath of allegiance, and become tax-paying U.S. citizens after five years, provided they demonstrate support for themselves and their families;
- The U.S. government to pay for the survey of the land on the reservation, while the tribe to pay all expenses related to the negotiation and execution of the treaty from proceeds of land sales held in trust by the federal government;
- In accordance with the pertinent 1854 treaty, an undivided portion of the reservation to be held in common by the tribe with the remainder to be declared surplus and sold for the benefit of the tribe;
- Alternatively, if a majority of those tribal members who preferred to hold in common opt to move southward to Indian Territory, their new homes shall not be limited to the size of allotments assigned under this treaty, but can be as large as can be purchased with their proportionate share of the proceeds from land sales of their land tracts in Kansas had they stayed put;

- Tribal members who had left the Kansas reservation some years prior and moved southward must return within one year of this treaty's ratification to qualify and receive individual allotments of 40 acres, after which they shall forfeit any claim to benefits therefrom and the pertinent land tracts declared surplus and ready for sale to non-Indians;
- The U.S. Secretary of the Interior to conduct a census of all the tribal members for the purpose of determining who wants to hold land in severalty and specifying the names of individual tribal members to whom land allotments would be assigned;
- Proceeds of the sale of the surplus land to the Atchison and Pike's Peak Railroad to be held in trust by the U.S. government and paid out to the tribe in yearly installments. However, contract and land purchases by the railroad shall be null and void, if the company fails to complete pertinent sections of said railroad with the prescribed timeline;
- The tribe to relinquish all rights, title, and interest in the reservation to the U.S. government;
- Any stipulation in former treaties inconsistent with provisions of this treaty shall be of no force or effect; and
- If the U.S. Senate rejects or amends any article of this treaty, such rejection or amendment shall not affect other provisions of this treaty which shall go into effect when ratified.

With the Civil War raging in the spring of 1863 and unbeknownst to most Northern Kickapoo, the one-sided treaty was ratified, signed, and proclaimed by U.S. President Abraham Lincoln. At the same time, a special BIA agent named Edward Wolcott was assigned to the Kansas reservation to supervise the prescribed allotments to Northern Kickapoo tribal members. He quickly allied with Keith, Badger, and the rest of the Kansas Land Sharks, who, in fact, had

relied upon a rigged tribal referendum, cherry-picking of compliant tribal representatives to substitute for uncooperative tribal leaders, rampant bribery, self-dealing nepotism, profiteering, and other unscrupulous business practices in order to get their way. When all else failed, coercive threats were made to secure treaty support, warning that tribal annuities would be withheld and/or U.S. troops called upon to intervene.

Nevertheless, the treaty's implementation hardly proved to be a done deal. A great public outcry erupted in Kansas and spread across the country against the grave injustice playing out and the underlying shameful exploitation and cynical manipulation of the vulnerable Northern Kickapoo. W.W. Guthrie, the Attorney General of the fledgling State of Kansas, immediately launched a popular campaign to annul what became increasingly perceived as a fraudulent allotment treaty rooted in egregious bad faith. A grand jury was convened in Topeka, Kansas, and a parade of local witnesses, including many Northern Kickapoo leaders, voiced their vociferous objections to the treaty that was being imposed upon the tribe without the understanding and willful consent of most of its members.¹⁷⁰

It did not take long for disturbing reports of widespread nefarious activities and mounting public protest to reach President Lincoln, congressional leaders, the Secretary of the Interior, and the BIA commissioner in Washington, D.C. By June 1863, implementation of the treaty was suspended. The national office of the BIA was compelled to launch a preliminary fact-finding investigation, including field hearings.

Amidst swirling allegations of collusion, the new replacement BIA Commissioner William P. Dole was appointed. He travelled to Kansas to hold public hearings and ostensibly gather evidence about the scandal surrounding the treaty in general and the alleged misdeeds of

¹⁷⁰ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman: University of Oklahoma, 1963), 129-130.

Keith and other conniving Kansas Land Sharks, in particular. It was also determined that John Kennekuk was the only leader among the Northern Kickapoo to have signed the treaty, as ratified, and that the other tribal signatures were bogus. As it happened, Keith had proceeded to certify that the tribal council had met and approved the treaty, while, in fact, he had coerced the other signatures on behalf of the tribe in one-on-one meetings at his home.¹⁷¹

In August, Nokawat despaired and led one hundred of his followers southward to Mexico, while another band of fifty left the reservation and followed Keoquak to western Kansas in protest against the treaty and the prescribed allotments. Shamelessly, Keith, Badger, and their co-conspirators testified to their due diligence and went on the offense.¹⁷² They accused the Kansas Attorney General William Guthrie of acting in cahoots with a rival railroad company, whiskey traders, and timber thieves and not on behalf of the Northern Kickapoo. In a letter to BIA Commissioner Dole, they also claimed that Keoquak's band was complicit with agents of the Confederate States of America and had massacred settlers on the frontier.

Seemingly as a face-saving ploy, Dole rejected special BIA agent Wolcott's advice and extended by one year through administrative action the deadline in the treaty to July 1, 1865, whereby absentee Kickapoo who had moved away from the Kansas reservation had to occupy the allotments available to them back on the reservation before those land tracts could be sold to white land speculators and/or settlers. That action provided some measure of political cover in advance of Dole vetting his investigative report with the U.S. Secretary of the Interior and its subsequent presentation to the President and the Congress in April 1864. Inside Congress, the self-dealing U.S. Senator Pomeroy from Kansas muddied the controversy. He renewed and

¹⁷¹ Ibid., 132-134.

¹⁷² Ibid., 134.

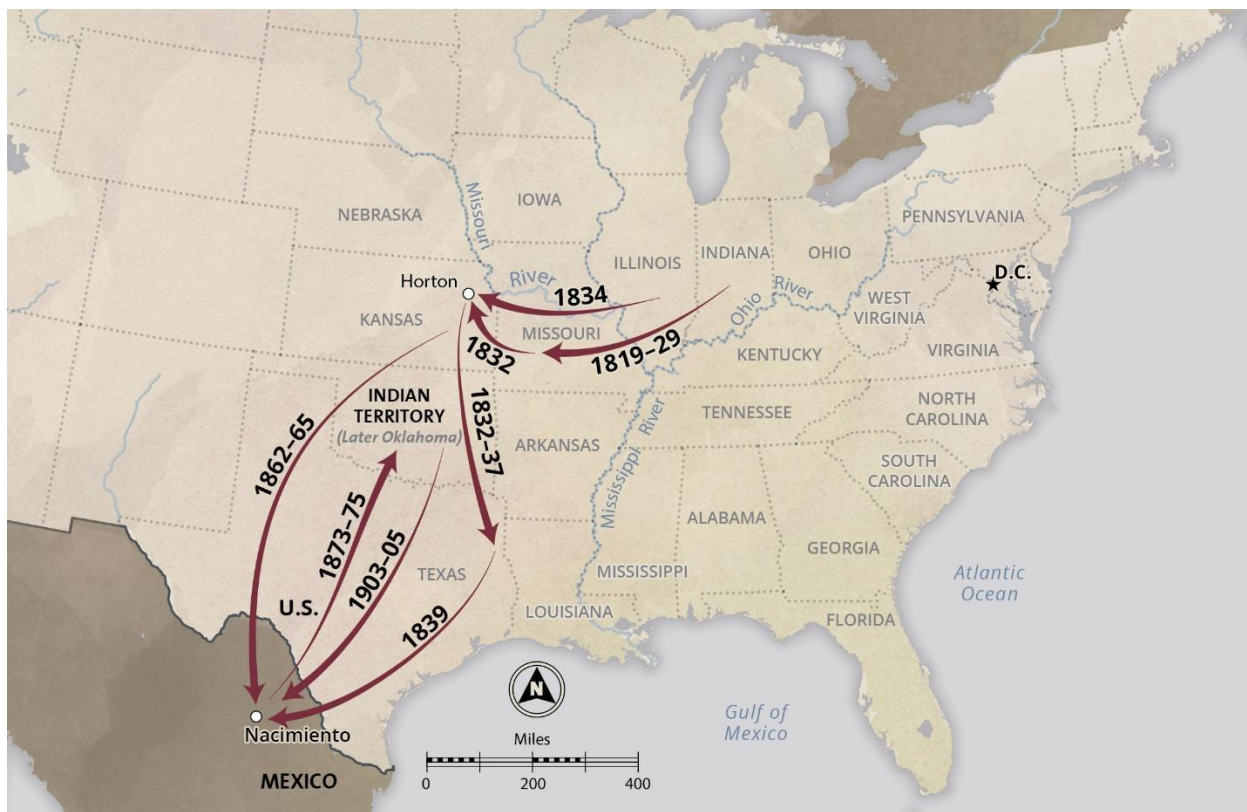
amplified allegations that Guthrie was fronting on behalf of the rival Hannibal and St. Joseph Railroad Company. He maneuvered to ensure that the treaty suspension was lifted.¹⁷³

Ultimately, the coordinated, corrupt criminal conspiracy won out. The 1862 treaty stood essentially unchanged. With the approval of the U.S. Secretary of the Interior, plans resumed to carve up the reservation lands and assign allotments to a minority of the Northern Kickapoo who were willing to accept them. On February 21, 1865, the remainder of the reservation land was declared surplus, sold at an absurdly low price to Senator Pomeroy and his cronies, and corresponding title transferred to the Atchison and Pike's Peak Railroad. By June 1865, Pomeroy's railroad line across the pre-existing Northern Kickapoo reservation was nearly completed. The door was then thrown wide open to the ensuing development of nearby farms, towns, and expanding business opportunities.

Very sadly, the obsequious John Kennekuk had written to President Lincoln the prior month and reported that the Northern Kickapoo "have done as our Great Father wished us to do and fulfilled the work of our treaty. There is good feeling among us; we are all satisfied and we are very glad."¹⁷⁴ But contrary to John Kennekuk's delusions, a strong majority of his Northern Kickapoo brethren continued to vigorously oppose the 1862 treaty and related allotment policy. Keoquark's band returned before the July 1865 deadline to settle on the land held in common, only to head southward again to Indian Territory in 1874. Nokawat led his band back to what remained of the Kansas reservation in 1867 only to learn that their treaty rights and allotments had been forfeited. As of 1869, only ninety-three tribal members had accepted assigned allotments, while one hundred and seventy-two continued to hold their land in common.

¹⁷³ Ibid., 134-135.

¹⁷⁴ Ibid., 135.



An interactive case study of the removal of the Kickapoo. Source: nmai.si.edu.

The Mexican Kickapoo

The Kickapoo who were most adamant about preserving their tribal culture and traditional lifeways decided to move beyond the reach of the U.S. government altogether. They sought a separate peace in a foreign land. More specifically, when the Kickapoo were forced to leave permanently Illinois, Mosqua didn't re-settle in Missouri or Kansas in 1832. Instead, he led his band southward to the Sabine River in Texas, which was then a province in the Republic of Mexico and which had gained its independence from Spain in 1821.¹⁷⁵ They linked up with disaffected Cherokee and runaway African American slaves. Together, they firmly and prosperously ensconced themselves in the present-day Nacogdoches area. Local Mexican

¹⁷⁵ Ibid., 109.

authorities also welcomed them. Why? Because the Mexicans had attained their national independence only a decade earlier. Consequently, the Government of Mexico had neither the resources or the military reach to effectively police the country's northern border. But the new arrivals' peace and good fortune proved to be short-lived.

In 1836, a growing number of U.S. colonists, who had been drawn to the region earlier by the generous land-grant policy of the Mexican government, staged a violent and successful rebellion. They quickly established the provisional government of the newly independent Republic of Texas in March. That date also marked the opening of a period of increasing instability between newly minted Anglo-Texans and virtually all the Indians living within the new republic's uncertain boundaries. Ultimately to no avail, the newly-established Texas Indian Commissioner Sam Houston had quickly negotiated an amicable peace treaty with Bowles, the Cherokee leader of the diverse community whereby the Cherokee, Kickapoo, and their allies could keep their land and live on it peacefully so long as they remained neutral in the festering conflict between the upstart Republic of Texas and the Mexican government. While the polyglot newcomers lived up to their commitments amidst the turmoil, the Texan government never ratified Houston's diplomatic handiwork, even after he was elected to serve as the first President of Texas.

Through 1837, tensions kept escalating between Anglo-Texan settlers with a lust for more land and many of the surrounding Indians. Open conflict broke out and public opinion overwhelmed Houston's desire to live and let live.

In 1838, Bowles renounced Kickapoo raids on Texan settlers and disassociated himself and his followers from the Kickapoo. Undercover Mexican agents sought to capitalize on the ruptured community ties by recruiting disaffected Kickapoo to foment a counter-revolution and

topple the breakaway, fledgling Republic of Texas. On September 8, a hunting party of Kickapoo attacked a land survey group, killing seventeen Texans near present-day Dawson, Texas, in what became known as the Battle Creek Massacre. Not surprisingly, that attack aroused a bloodthirsty public outcry among non-Native Texans calling for the eradication of all Indians inside Texas.

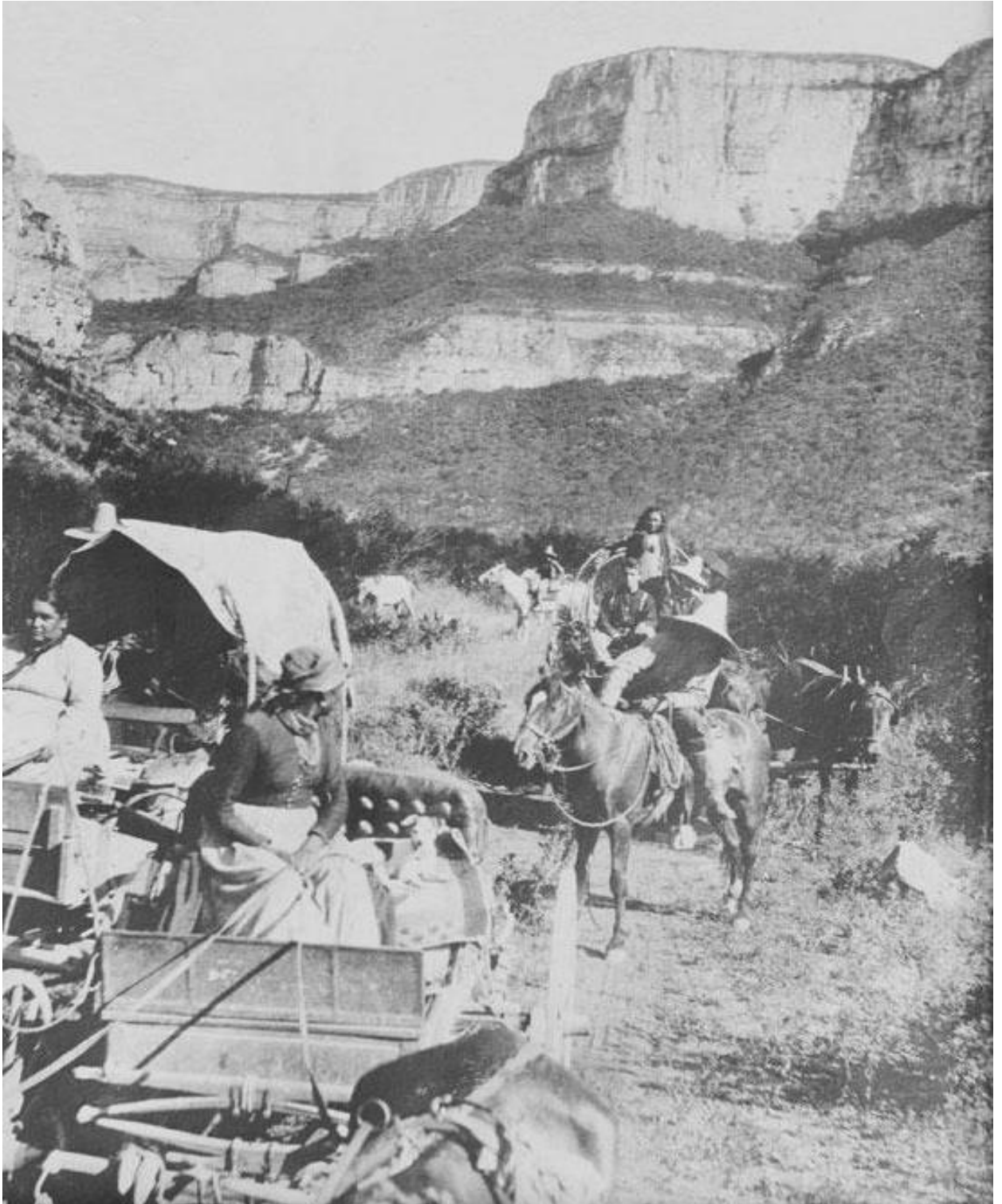
Soon thereafter, another Kickapoo - Mexican attack was led by Capitan Benito, son of the well-known Kickapoo raider Black Buffalo, on the small frontier town of Killough, resulting in the deaths of many of its inhabitants. In retaliation, Texas General Thomas J. Rusk counterattacked a Kickapoo village on October 18, 1838, and a pitched three-day battle ensued.¹⁷⁶

Mirabeau Lamar, a rabid anti-Indian zealot, was elected to succeed Houston as President of the Republic of Texas in December 1838. In the public mind, he linked together the Battle Creek Massacre, the nearly complete destruction of Killough, and the subversive actions of local Mexican agents, including incriminating communications with the Kickapoo and other Indian insurgents, to launch an all-out military assault to rid Texas of all Indians. At nearly the same time, David Barnett, Vice President of Texas, and Albert Sidney Johnston, the Texas Secretary of War, sought to negotiate with Bowles and his followers for their peaceful removal to Indian Territory. But while Bowles deliberated, Capitan Benito and his Kickapoo raiding party killed several Texan settler families at Mustang Prairie in East Texas. Consequently, any notion of reaching a negotiated settlement was abandoned in mid-1839. Texan authorities branded the Kickapoo and all other tribes in the Nacogdoches area as co-conspirators with Mexican agents. A military campaign was launched to exterminate the Indians and Bowles was killed in the process.

¹⁷⁶ Ibid., 154-155.

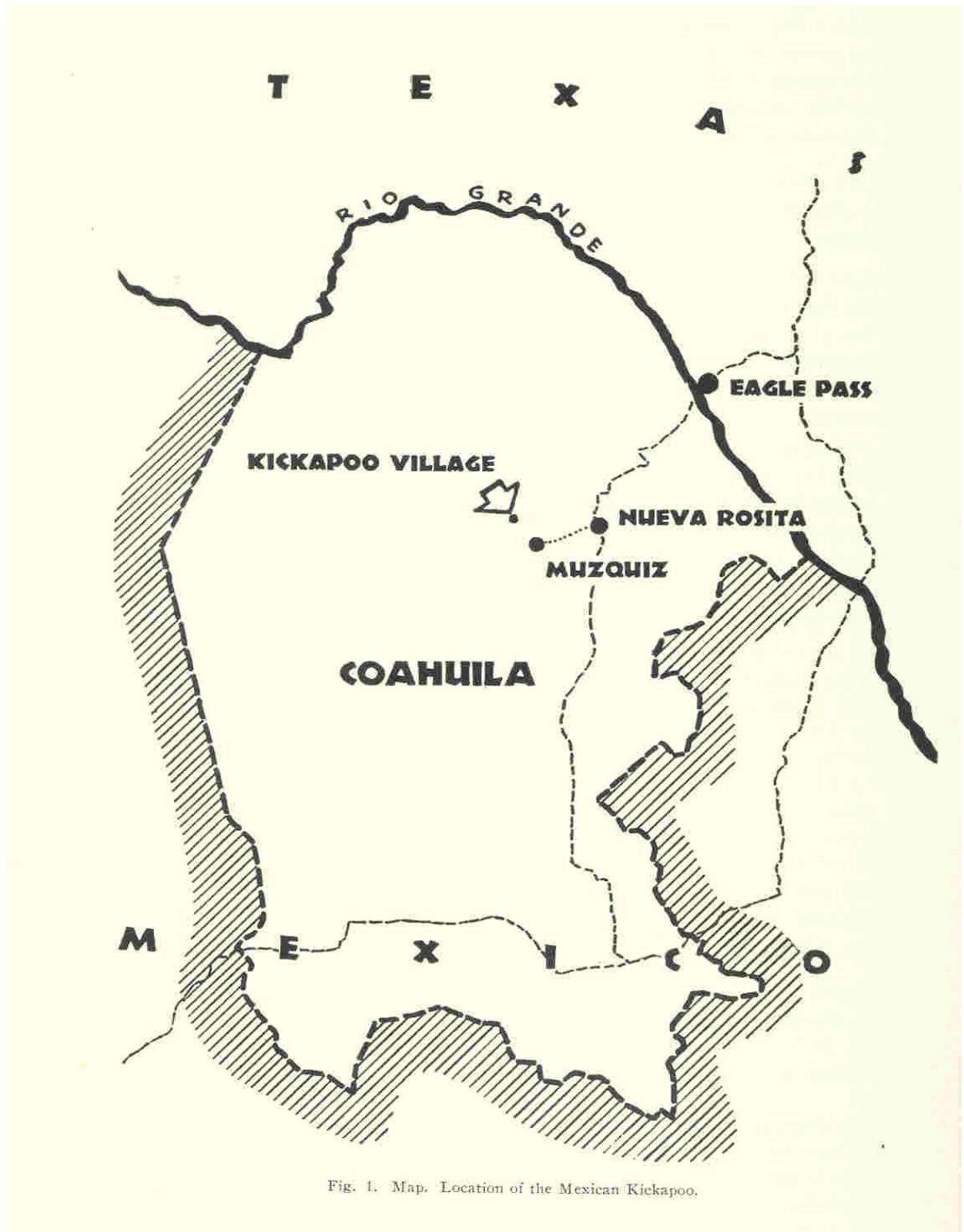
According to the U.S. Consul General in Matamoros, the first group of Kickapoo arrived in Mexico during the second half of 1839.¹⁷⁷ They were part of a rag-tag group of survivors who had migrated from East Texas. Bowles' son, John, had led them part of the way until he and his mother were killed when his band of stragglers that included Cherokee, Delaware, and Caddoes were attacked by the Texan Army 75 miles northwest of present-day Austin. Kickapoo warriors were among other Indians who immediately aligned with the Mexican military. Those warriors were promptly dispatched to guard the increasingly unstable Mexican border along the Rio Grande River.

¹⁷⁷ Ibid., 158.



Kickapoo caravan on trail in repeated migration southwesterly to Mexico. Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 353. Courtesy Bureau of American Ethnology. From a print furnished by Martin J. Bentley, agent for the Kickapoo, February, 1907.

Some Kickapoo remained south of the disputed border throughout the turbulent times that racked northern Mexico, which saw Texas annexed into the U.S. in 1845 and the ensuing 1846-1848 U.S.- Mexican War. After its defeat in the war, the struggling Mexican government recommitted itself in 1848 to curtailing the incessant cross-border raiding by marauding Comanche and Apache warriors. In so doing, Mexican officials turned to the itinerant Kickapoo, Seminole, African - Americans, and others for help. The Kickapoo and their allies quickly capitalized upon the opportunity to provide border protection, adroitly positioning themselves to function as informal border brokers and opportunistic traders. In effect, they became protectors of Mexican territory, while also serving as a buffer against recurring raids against Mexican villages and presidios from the north.



Pinpointing the traditional community of Kickapoo in Coahuila Province of Mexico. Source: "The Mexican Kickapoo Indians," Robert E. Ritzenthaler and Frederick A. Peterson, 22.

In 1849, more than five hundred additional Kickapoo presented themselves to Mexican authorities on the makeshift border near Guerrero, Coahuila, on the Rio Grande River and asked for land to establish themselves. They had joined forces with a dissident Seminole leader named Coachochee (Wild Cat) and his followers plus Gopher John and his band of fugitive slaves.¹⁷⁸ The Mexican officials granted their request in mid-1850, temporarily allowing their settlement in present-day Zaragoza, Coahuila. Soon thereafter, a formal agreement was co-signed awarding them an estimated 70,000 acres near Remolino in Coahuila Province provided the new arrivals adhered to the following conditions:

- Obey Mexican authorities and Mexican laws, *but most notably to the Kickapoo, it was not demanded of them that they change their traditional tribal customs and lifeways;*
- Maintain harmonious relations with other nations that are friendly to Mexico;
- Prevent Comanche, Apache, and other raiders from the north from crossing the border and punishing the outsiders for any incursions; and
- Maintain good relations with U.S. citizens insofar as possible.

But new challenges quickly arose. The provisional government in Coahuila was pressured by unhappy established residents in Remolino to resettle the newly arrived Indians and their allies elsewhere. Hence, most of the Kickapoo and their allies were ordered to move to Hacienda El Nacimiento 23 miles northwest of Santa Maria del Sacramento (present-day Melchor/Muzquiz) during 1851. The following year, Papicua, Wild Cat, and their respective

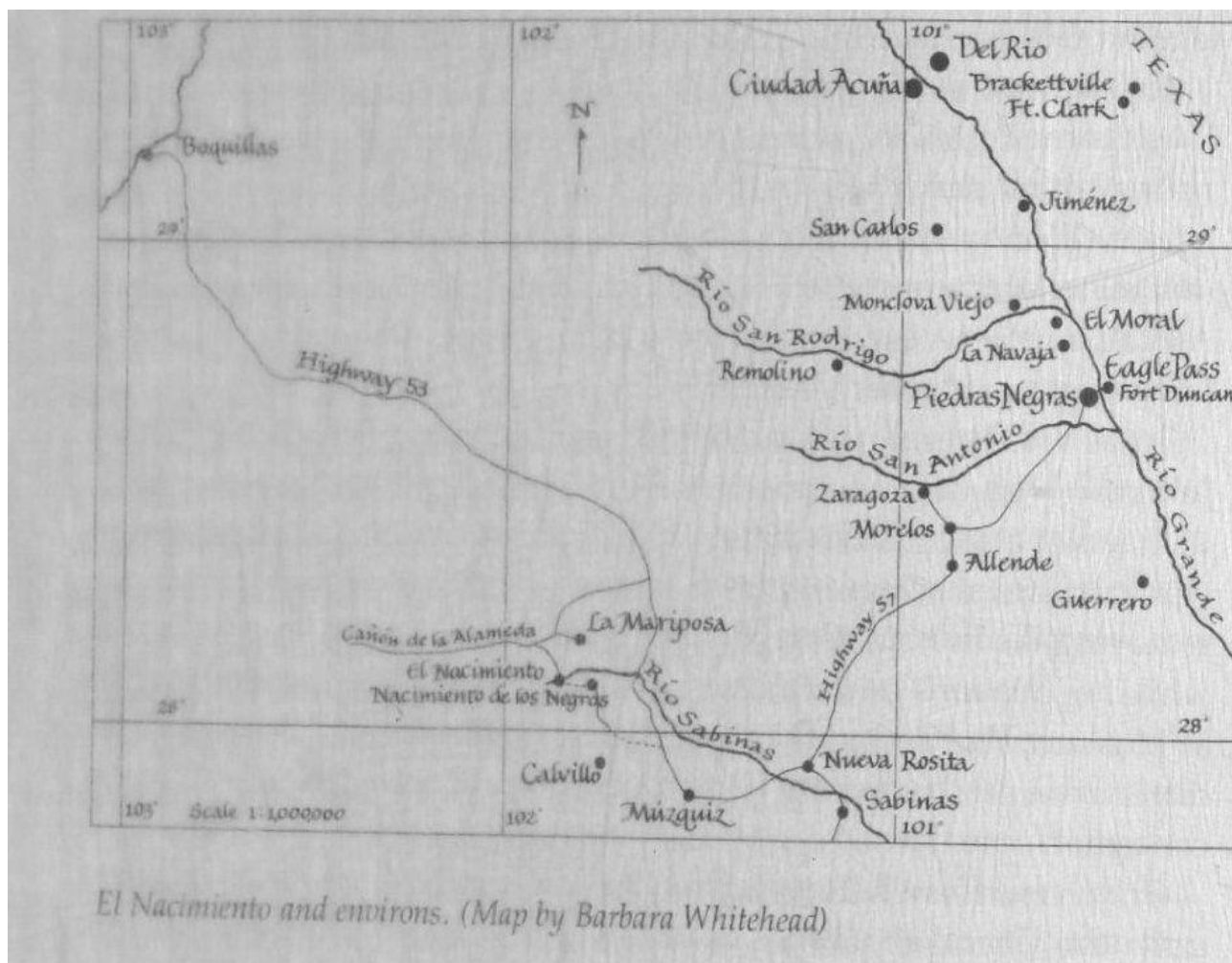
¹⁷⁸ Ibid., 179-181.

followers were granted approval by Mexican officials to permanently settle on 17,352 acres in and around Hacienda El Nacimiento subject to the following requirements:¹⁷⁹

- Settle in villages;
- Be on call to muster at least two hundred warriors upon request; and
- Recommit themselves to repel Comanche, Apache, and all other Indians at war with the Mexican government.

They were also granted an equal amount of land in the Province of Durango, but the Kickapoo and their allies did not make use of it at that time.

¹⁷⁹ Dolores L. and Felipe A. Latorre, *The Mexican Kickapoo Indians* (Austin: University of Texas Press, 1976), 12.



Locating El Nacimiento in Northeastern Mexico. Source: Dolores L. and Felipe A. Latorre, The Mexican Kickapoo Indians, p. 12.

Generally speaking, most of the Kickapoo were indifferent about the issues at stake in the American Civil War, despite repeated entreaties to take sides from the Union and later from the Confederacy.¹⁸⁰ Instead, they sought to take advantage of the unsettled conditions on both sides of the Rio Grande that were exacerbated by the redeployment of most of the U.S. soldiers from

¹⁸⁰ A notable exception occurred in the Battle of Dove Creek in south central Texas on January 8, 1865. It proved to be the most disastrous defeat ever suffered by Texans in their long history of Indian warfare, during which 26 Texans were killed and 60 more wounded. A small force of Confederate soldiers under Captains Henry Fossett and S.S. Totten, misunderstanding which tribe occupied a discovered camp, attacked a sizeable, unsuspecting band of encamped Kickapoo who were headed for Mexico. Gibson, *Kickapoos*, 202-207.

border outposts northward to Civil War battlegrounds. Then, in 1863, Capitan Tabaco was given money and permission by Mexican officials to return to the U.S. with a view to enticing many of the Kickapoo who wanted to leave the U.S. to move and resettle in Mexico.

By 1865, nearly all of the Kickapoo except those living on the Kansas reservation had moved to and assumed the moniker of the Mexican Kickapoo. From their base in Nacimiento, the Mexican Kickapoo carried on an unparalleled and long-running guerilla war against the State of Texas. They continually raided into Texas to acquire horses and mules from ranches near the Rio Grande border which could be traded, in turn, for goods.

In response, the increasingly frustrated U.S. government tried diplomatic and military means to quell the unrest. In 1871, Jonathan B. Miles, the Quaker BIA agent posted to the Northern Kickapoo reservation in Kansas and accompanied by Nokawat and other Kickapoo leaders traveled to Mexico to confer with the Mexican Kickapoo about their possible return to the U.S. But Mexican officials blocked them from having any direct communication or contact with the Mexican Kickapoo because they didn't want to lose their first line of border defense or the related trade.¹⁸¹ The following year, Congress authorized a three-member commission to investigate the on-going tribal warfare being waged against Texas ranchers. Well into 1873, that commission conducted fieldwork and gathered depositions in frontier Texas towns before reporting that the "Mexican Kickapoo were especially distinguished by a bitter animosity toward the inhabitants of Texas and for unceasing activity in their bold raids."¹⁸² Aggrieved Texans threatened to take matters into their own hands. Consequently, the specter of a growing and potentially incendiary international standoff loomed large.

¹⁸¹ Ibid., 227-231.

¹⁸² Ibid., 222-223.

One way or another, U.S. policymakers resolved to end the disruptive Mexican Kickapoo raiding into Texas by removing the expatriate tribe from Northern Mexico and forcing them to resettle in Indian Territory. A second diplomatic mission, led by H. W. Atkinson and T.G. Williams, was sent to negotiate with Mexican officials and leaders of the Mexican Kickapoo in hopes of persuading the tribespeople to return peacefully to the U.S. and resettle in Indian Territory.¹⁸³ The U.S. diplomats secured the approval of local Mexican officials in Coahuila, who appointed a counterpart Mexican commissioner to accompany them to Nacimientos. Meanwhile, and with negotiations still in progress in 1873, U.S. Army General William Tecumseh Sherman of Civil War fame ordered Colonel Ranald S. Mackenzie and the 4th U.S. Cavalry to redeploy to Fort Clark (present-day Bracketville, Texas). A clandestine U.S. military assault was planned against the Mexican Kickapoo villages located near Remolino, 30 miles inside Mexican territory. After conferring with U.S. Secretary of War William Belknap, U.S. Army General Philip H. Sheridan (also of Civil War fame), and others, Colonel Mackenzie was ordered to attack under the cloak of darkness. The so-called Battle of Remolino unfolded on May 18, 1873, as a very one-sided engagement. The unsuspecting Mexican Kickapoo villages were virtually defenseless because most of the tribesmen were away on a hunting expedition. As the surprise attack drew to a close, U.S. soldiers also took forty Mexican Kickapoo survivors as hostages and transported them back across the border to be held in San Antonio, Texas.¹⁸⁴

As it happened, the Atkinson-Williams negotiating team was also surprised and greatly hampered by Mackenzie's raid. Nevertheless, they persisted in their mission and ultimately were able to overcome the immediate outcry among Mexican residents of the local area about this

¹⁸³ Ibid., 237.

¹⁸⁴ Ibid., 239-245.

egregious breach of their national sovereignty. Fearful of more U.S. military raids and concerned about their relatives already taken hostage, many of the Mexican Kickapoo agreed to move to Indian Territory. They were also enticed with promises of livestock, guns, and food staples, and assured that they could skirt Texas altogether in their return to the U.S. Nevertheless, an estimated 200-250 Mexican Kickapoo resolved to stay behind in Nacimientito. With much smaller numbers, they continued with small-scale raids across the border into Texas on occasion and to do their best to ward off Comanche and Apache marauders.

In 1875, U.S. Commissioner Atkinson made his final visit and induced approximately half of the remaining Mexican Kickapoo, an estimated 114 tribal members, to return to the U.S. and resettle in Indian Territory. Thereafter, an estimated 100-225 Mexican Kickapoo still made their home in Coahuila. Not to be quelled, they fended off eviction orders and resumed guerilla warfare and cross-border raiding. In response, a combined force of additional U.S. Army regulars and Texas Rangers were deployed to a long line of defense along the Rio Grande. U.S. cavalry were also sent regularly on expeditions into Mexico to destroy Kickapoo villages and disperse the inhabitants with or without Mexican government approval. Those encounters met with the last armed resistance of the Mexican Kickapoo.

By 1880, General Sheridan reported that Mexican Kickapoo raiders were far less active. For all practical purposes, the tribe abandoned their long-running guerilla war with Texas and settled into more peaceful pursuits. Finally, in 1884, Mexican President Porfirio Diaz decreed that the remaining Mexican Kickapoo and their expatriate African - American allies would be allowed to stay permanently and undisturbed on the lands in Coahuila and Durango which they had been granted decades earlier.

CHAPTER 15

EXTRA-TERRITORIAL REACH, INTRACTABLE RESISTANCE, AND STILL MORE PLUNDER

The Kickapoo most resistant to colonization in the U.S. and who most wanted to adhere to their cultural traditions and indigenous ways of being and knowing grasped early on the need to get beyond the reach of the U.S. government. Once they were forcibly removed from their ancestral homelands, they moved to Mexico and to the relatively unorganized Indian Territory that would later become the State of Oklahoma. However, their quest for a separate peace was largely not to be. Many of the Mexican Kickapoo either became resigned to returning to the U.S. or were compelled to do so under U.S. military escort during the 1870s.

The Oklahoma Kickapoo

The new policy goal of the U.S. government for dealing with the Kickapoo returning from Mexico was to resettle them with the disaffected Kickapoo who were already living in Indian Territory (present-day Oklahoma) after having left the Kansas reservation. In effect, all the stalwart traditionalists among the Kickapoo would be concentrated in one place and “civilized.” U.S. policymakers and their Christian missionary allies were determined that this proud, resistant, and resourceful tribesperson, the reconstituted Southern Kickapoo, would be systematically transformed into yeoman farmers and compliant wards of the federal government. One wildly optimistic Quaker missionary, Enoch Hoag, wrote to the local commissioner of Indian Affairs in 1874, “The Mexican Kickapoo, late depredators and raiders for a long period on the border of Mexico, are now ready to settle down after the example of the Kansas Kickapoo who are self-supporting. The Mexican Kickapoo should have homes opened for all heads of

families, grounds plowed, fenced, and cultivated, and a supply of necessary implements at an early day, and their children provided with schools, looking to early self-support.”¹⁸⁵

To the contrary, however, the Southern Kickapoo proved themselves to be contrarians in a league of their own. Arguably, no other tribe in the history of federal Indian policy caused as much difficulty and heartburn for BIA agents as the Southern Kickapoo. They stubbornly resisted all “civilization” efforts and defiantly remained largely unchanged at the conclusion of the Reservation Era. In 1871, Congress enacted an appropriations rider ending, once and for all, the negotiation of any new treaties between the U.S. government and tribal nations. It was unusual among all tribes for the Reservation Era for the Southern Kickapoo to span roughly from 1874 to 1895.

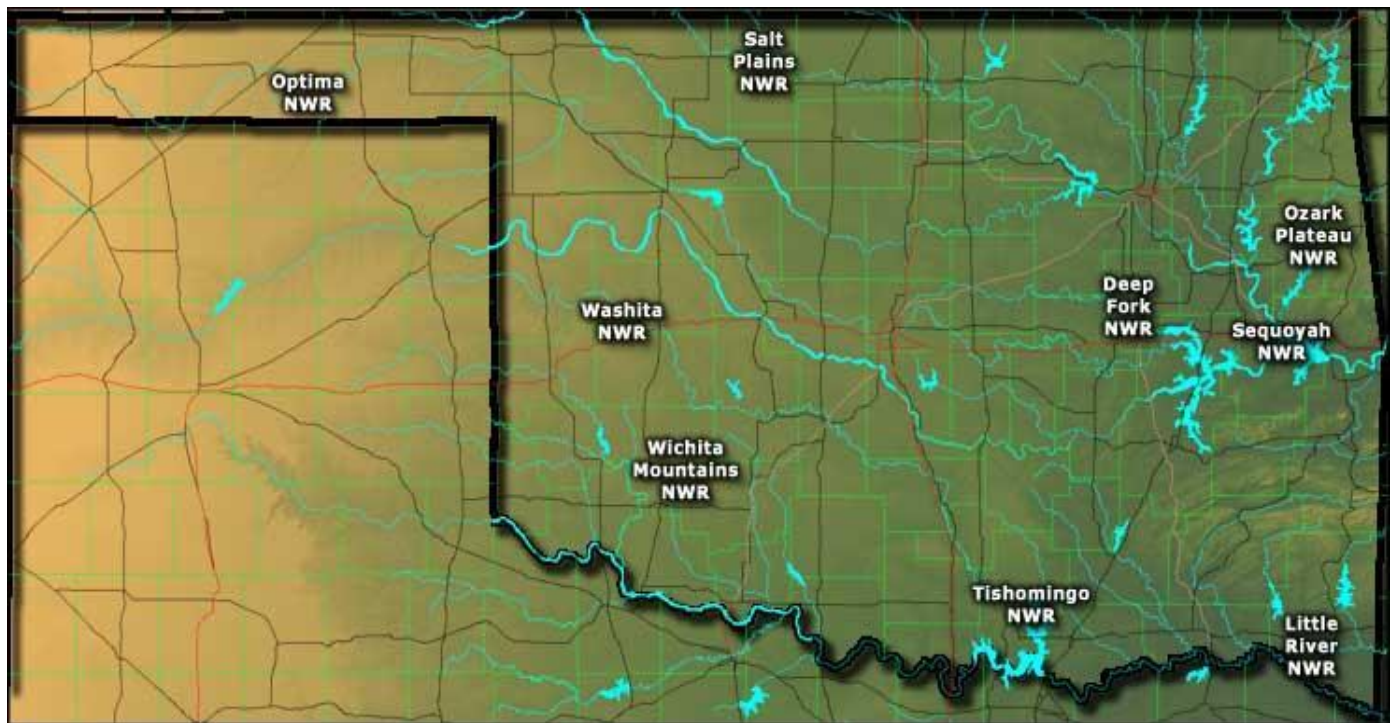
Originally, U.S. policymakers had hoped optimistically and planned to resettle all the Kickapoo returning from Mexico on the Kansas reservation. But it quickly became apparent that the drastically downsized Northern Kickapoo reservation was out of the question. Furthermore, non-Native Kansans living near the reservation protested “wild Indians” from Mexico living so close. Accordingly, BIA agent Andrew Williams was detailed in 1873 to locate and prepare a suitable new tribal reservation in Indian Territory for the reconstituted Southern Kickapoo.¹⁸⁶

By December 1873, a cold war of sorts between the Southern Kickapoo and the U.S. government quickly began to take hold. It was to play out for decades to come. Tribal leaders of the Mexican returnees rejected in council the pre-selected tract of land just west of the Osage-Kaw reservation in Indian Territory and reminded U.S. government officials that they had conditioned their return and had been assured that they would be given the right to select a new

¹⁸⁵ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman: University of Oklahoma, 1963), 254.

¹⁸⁶ *Ibid.*, 254-255.

homeland in Indian Territory for themselves. Accordingly, Thahpequah flatly informed U.S. Commissioner Henry M. Atkinson that he and the Southern Kickapoo returnees would spend the winter along the Washita River and that they would select a new reservation in Indian Territory during the following spring. U.S. officials were further reminded of their promises to release all Kickapoo captives and be provided blankets and other provisions to carry them through the winter.



*Locating the Oklahoma Kickapoo Reservation near the Deep Fork National Wildlife Reserve.
Source: thearmchairexplorer.com/oklahoma/o-images/nwrs/OK_NWRs01.jpg.*

In the spring of 1874, Thahpequah and other tribal leaders selected a new reservation for the Southern Kickapoo, just west of the Sac and Fox reservation in the Deep Fork area of Indian Territory. Accordingly, BIA officials placed them under the jurisdiction of the Sac and Fox Agency. Those same officials also sought to establish a new government school on the reservation immediately, but their “civilization” initiative was vehemently rejected by the

Southern Kickapoo tribal council as a fundamental affront to their religious beliefs. The tribal leaders pointedly expressed their aversion to the white man's education, underscoring their belief that its embrace would make their people traitors to the Great Spirit.¹⁸⁷

Meanwhile, in December 1874, Commissioner Atkinson undertook another trip to Mexico for the purpose of inducing still more of the Mexican Kickapoo to return and re-settle on the new reservation. Mosquito and Mahquatauthea and their combined bands of an estimated 170-300 tribespeople agreed to return during 1875, but the remaining 220-240 Mexican Kickapoo resolved to stay in Mexico under the leadership of Cheeno and Galindo.¹⁸⁸ They also enjoyed the de facto support of Mexican government authorities and area residents.

From 1875 onward, the Southern Kickapoo were subjected to unrelenting federal efforts to "civilize" them and transform them into law-abiding, self-supporting members of mainstream non-Native society. A BIA sub-agency was established in their midst, complete with a warehouse, blacksmith shop, schoolhouse, and housing for station employees. Food rations, blankets, and other supplies were provided to the tribe by the U.S. government presumably until such time as tribal families became self-sufficient. In addition, a resident physician was posted along with a station farmer who was to instruct tribal families about farming methods, equipment use, and livestock care. Instead of falling in line and embracing government efforts to turn them into farm families tending their own privately-owned plots of land, however, the Southern Kickapoo stubbornly continued to roam far and wide in Indian Territory hunting, cattle rustling, and selling skins and government-issued blankets clandestinely. They even cleverly figured out

¹⁸⁷ Ibid., 256-257.

¹⁸⁸ Ibid., 261-264.

ways to hire downtrodden Mexicans, emancipated African - Americans, and other Indians to clear timber, split rails for fencing, and tend crops.

Clearly, they were very unhappy with reservation life and they continued in a prolonged and deliberate campaign of constant criticism, complaints, and open defiance of BIA policies, rules, and regulations. In 1876, they rejected a policy of forced allotments in severalty of their reservation land held in common, frustrating a concerted federal effort to link the continued distribution of food rations, livestock, and farm equipment to tribal acceptance of individual allotments. In fact, they insisted upon receiving rations solely as a matter of pre-existing treaty rights and as a form of tribute, which they regarded as an important symbolic victory. When the Quakers secured federal approval to undertake missionary work among the Southern Kickapoo in 1883 and sent a married couple and a teacher to take up residence on the reservation, they were met with great hostility and left in despair.¹⁸⁹

Nevertheless, cracks in the tribal wall of cultural resistance began to appear in 1885, when a follow-on Quaker missionary, Elizabeth Test, began to earn some grudging acceptance thereafter with a growing number of tribal families so-called the Progressive Kickapoo, who relented and allowed their children to attend her school.¹⁹⁰

Fatefully, Congress passed the General Allotment Act of 1887, also known as the Dawes Act, and U.S. President Grover Cleveland signed it into law. That sweeping statute transformed federal Indian policy and authorized the President of the United States to survey Native American tribal land nationwide and divide it into much smaller allotments for individual Native Americans. It ushered in the era of allotment and assimilation policy, which had been

¹⁸⁹ Ibid., 279.

¹⁹⁰ Ibid., 285-290.

foreshadowed decades earlier in the treatment of the Northern Kickapoo and the plundering of their Kansas reservation.

By 1889, the intransigence of the Southern Kickapoo predictably exhausted the forbearance of U.S. government officials from the local to the national levels. Also, policymakers could no longer stave off a growing groundswell of public clamor for unassigned and “unused” lands in the heart of Indian Territory. The flood gates were thrown open and Oklahoma Territory very quickly witnessed the disappearance of frontier wilderness and the rapid establishment of new towns such as Guthrie—the new territorial capital—Stillwater, Norman, and Oklahoma City. More specifically, non-Native land speculators and settlers all known as the boomers swooped in to stake claims adjoining the Southern Kickapoo to the west. They were joined by swarms of gamblers, whisky peddlers, and all sorts of hustlers and swindlers who were itching to take full advantage of unsuspecting Kickapoo and other Indians. It wasn’t long before new trouble arose, when settlers began encroaching and trespassing on reservation land to hunt, poach timber, and graze livestock. Southern Kickapoo protests fell upon the deaf ears of uncaring BIA agents and other local authorities. When tribal warriors began to mobilize to drive out intruders, they were quickly intercepted by U.S. cavalrymen and disarmed, which only served to further enrage tribal members.

In June 1889, the federal policy context was set for what became known infamously as the Great Kickapoo Land Swindle. Over the course of the following twenty-five years, from 1890-1915, the uninformed and unaccustomed Southern Kickapoo were shockingly exploited and cynically tricked into giving up much of their reservation land for non-Native settlement by a sinister cabal of corrupt politicians, manipulative federal officials, BIA accomplices, land pirates, and cheating attorneys.

This shameful debacle began in June 1889. In furtherance of a provision in the General Allotment Act of 1887, federal policymakers ordered a three-man commission to be led by Lucius Fairchild to travel to Indian Territory to negotiate with the resident tribes for extinguishment of their collective land title. Soon thereafter, David J. Jerome, the former Governor of Michigan, became chairman of what became known as the Jerome/Cherokee Commission. Meeting with representatives of the Southern Kickapoo to negotiate and pressure them into accepting individual allotments in severalty was a high priority.¹⁹¹ Non-Native land speculators and developers in the area had already targeted 206,000 acres of the Southern Kickapoo reservation as among the choicest in Indian Territory, including rich bottom lands of soil as black as Illinois prairie loam, combined with high prairie dotted with lush timber and plentiful spring waters.

Speaking forthrightly for the Southern Kickapoo, Wapeneshawa categorically refused to entertain any allotments in severalty whatsoever, unlike comparatively more compliant tribes such as the Sac and Fox, Potawatomi, Shawnee, Cheyenne, Arapaho, and Cherokee who were living nearby on their respective assigned reservations. He declared that “the reservation was no larger than sufficient to meet their needs; that to be definitely located would be to destroy their visiting, feasts, and dances; that if they did not own the reservation [which U.S. negotiators had asserted,] it would not be right to dispose of what did not belong to them; and if it was theirs, they did not wish to sell.”¹⁹² In response, the U.S. commissioners denounced the Southern Kickapoo as “the most ignorant and degraded Indians” they had met, while also reporting back to

¹⁹¹ Ibid., 293-294.

¹⁹² Ibid., 294.

Washington, D.C. that they were “possessed of an animal cunning and obstinacy in a rare degree.”¹⁹³

As of 1890, only 300 acres of land on the reservation was under cultivation. This was more than 15 years after the return of many tribespeople from Mexico. Yet, the U.S. government had spent more than \$100,000 over that span of time for farm machinery, tools, and livestock for the Southern Kickapoo, only to witness the livestock slaughtered or traded away. Nearly all of the tribe continued to live in bark-covered lodges, wear blankets, and practice their traditional customs and ceremonies. As I alluded to earlier, however, a growing split had begun to manifest itself between rival factions of the Southern Kickapoo: the so-called Progressive Kickapoo who had become less resistant to the white man’s ways, versus the so-called Kicking Kickapoo who continued to steadfastly refuse to submit to the U.S. government’s allotment and assimilation designs.

Sadly, a disreputable ex-U.S. deputy marshal named John T. Hill showed up on the reservation in the summer of 1890. He was feared by many of the Southern Kickapoo and showed up on the reservation at this juncture, offering to help the tribe avoid allotment and acquire for them an undisclosed amount of money in the nation’s capital that he claimed was intended for them. By the following summer, he had persuaded the tribal council to grant him power of attorney and to authorize him to lead a four-person delegation that included Hill, an interpreter named Joe Whipple selected by Hill, and two tribal representatives—Ockquanocasey and Keeshocum—to the nation’s capital to secure the funds supposedly earmarked for the tribe.

Upon arriving in Washington, D.C., Hill led his delegation directly to the offices of the U.S. Secretary of the Interior, John Noble. The two tribal leaders were reportedly threatened with

¹⁹³ Ibid., 293-294.

death and then pointedly coerced into co-signing a document purporting to approve the allotment of the reservation.¹⁹⁴

Once Keeshocum returned to the reservation and realized how he had been manipulated, he denounced the other delegation members and accused them of betraying the trust that had been bestowed upon them by the tribal council. Regardless, the die was cast. To the great shock, surprise, and dismay of the Southern Kickapoo, Congress approved the Kickapoo Allotment Act on March 30, 1893, and President Cleveland soon thereafter signed it into law.

[SIDEBAR: Adding Official Insult to Injury]

In greasing the skids for final passage of the legislation codifying the Great Kickapoo Land Swindle, the House Committee on Indian Affairs (HCIA) completely glossed over the profound injustices perpetrated upon the Southern Kickapoos by the U.S. government. In fact, the HCIA had the audacity to commend and pay handsomely the principal architect of the egregious fraud and deduct it from the sum by which they were already short-changing the tribe. Specifically, the HCIA report to accompany the Kickapoo Allotment Act of 1893, read: “The Government acquires by this agreement 206,000 acres of valuable land with the payment of the nominal sum of \$64,650. The land immediately south of it acquired from the Potawatomi Indians was opened to homestead entry at the price of \$1.50 per acre, and therefore it was thought advisable to charge the settlers the same price for the land. The bill makes ample provisions for the protection of the honest settler. Fifty-five thousand dollars ... appropriated is to remain in the Treasury of the United States at five percent interest. Four thousand four hundred and seventy-eight dollars is to be paid to the Indians per capita, and five thousand one hundred and seventy-two dollars is to be paid to John T. Hill. The Kickapoo Indians are very self-reliant, but

¹⁹⁴ Ibid., 294-296.

a wild and uncivilized tribe of Indians. They are great traders, intrepid gamblers, and farm in a small way, and are self-supporting. They have had but little to do with the white people and are averse to associating with them. The Cherokee Commission made four efforts to make an agreement with them about allotting their land and selling the surplus. They failed each time. The Indians finally called into their council, John T. Hill, and after nearly two years of residence and labor with them, suffering many privations, he finally succeeded in bringing about the written agreement, and brought the Indians with the commission to Washington to consult with the Secretary of the Interior. The Indians in council entered into an agreement with John T. Hill to look after their interest and said agreement lies here approved by the Secretary of the Interior. It was utterly impossible for the commission to make an agreement with said Indians, and had it not been for the knowledge that Mr. Hill had of their customs and habits, and the long acquaintance he had with the Indians, and their confidence in him, no agreement could have been made."¹⁹⁵

It wasn't until three years later that a U.S. Senate investigative committee looking into the affairs of the Mexican Kickapoo Indians determined that John T. Hill received \$5,172 in government bribes de facto for his betrayal of the Southern Kickapoo tribe's trust. That amount, in turn, was outrageously subtracted from the total of \$64,650 to be paid to the tribe, according to provisions included in the enabling 1893 statute, for nearly 200,000 acres of tribal land surreptitiously declared surplus as a result of the corresponding coerced allotment in severalty agreement strongly recommended by the U.S. Secretary of Interior at the time.

Federal officials wasted no time in implementing Congress' handiwork. In August 1893, BIA special agent Moses Neal arrived on the reservation to supervise and direct the allotment

¹⁹⁵ Ibid., 302-303.

and coercive assignment of 80-acre parcels to each enrolled tribal member. He was also authorized to make prompt payment in per capita shares of a corresponding portion of the total amount owed for the forced sale of tribal lands to be declared surplus. Enraged by the U.S. government's deceit and manipulation, the Southern Kickapoo unanimously refused to be enrolled, to receive any allotments, and to accept any per capita payments. Instead, they scraped together funding among themselves to promptly send Papashekit, a trusted tribal leader who also spoke some English, to Washington, D.C., to protest their treatment to Congress and the President.¹⁹⁶ Regrettably, the Southern Kickapoo emissary was stonewalled, insulted, and ignored by the pertinent federal agencies and congressional committees in the fall of 1893. Undeterred, U.S. government surveyors and BIA enrollment officers proceeded apace with forced allotment on the reservation, coaxing a growing number of Progressive tribal members to accept special rations of tobacco, beef, and sugar in exchange for agreeing to enroll themselves and their children and to volunteer the names of uncooperative Kicking tribal holdouts. In utter frustration, Papashekit turned to the Indian Rights Association (IRA) to be heard and explore possible redress.¹⁹⁷

The IRA conducted a far-reaching investigation in Washington, D.C., and on the reservation. In a searing report, they concluded that "the Jerome/Cherokee Commission ... inspired by Interior Secretary Noble, who seemed to have had the ambition to open as many acres of Indian land as possible to settlement, put back the cause on Indian civilization more than

¹⁹⁶ Ibid., 296.

¹⁹⁷ The Indian Rights Association (IRA) was a Euro-American (white) social activist organization dedicated to the well-being and acculturation of Native Americans. Founded in Philadelphia in 1882, the IRA was highly influential in American Indian policy through the 1930s and remained involved as an organization until 1994. The organization's initial stated objective was to "bring about the complete civilization of the Indians and their admission to citizenship."

fifty years” by the negotiations with the Southern Kickapoo.¹⁹⁸ Further damning findings in the independent report included:

- Hill’s promise of U.S. government monies available for the tribe was a ruse because the only money they were to receive was for sale of surplus lands, once they had accepted individual allotments for enrolled tribal members;
- The power of attorney given to Hill and Whipple by the tribal council to negotiate with the U.S. government was to have been exercised to preserve common ownership of reservation land and to secure a government guarantee against allotment in severalty, yet it was, in fact, abused and used for the opposite purposes;
- The fraudulent Southern Kickapoo allotment agreement, which was certified by BIA and Interior Department officials to be properly negotiated and unanimously approved by the tribe, was a “palpable forgery;”
- The official documentation submitted by the Interior Secretary to Congress for approval contained signatures that were printed names followed by marks of what was claimed to be the total adult male population in the Southern Kickapoo tribe. Furthermore, those signatures were thoroughly discredited by later investigations, which also produced, among other evidence, a protest signed by 19 tribal members. Instead, the tribal interpreter, Joe Whipple, had given a clerk in Secretary Noble’s office 50 names drawn from his memory or purely fabricated. In fact, that list included the names of several tribal members who had died before the ill-fated tribal delegation trip that Hill had masterminded in 1891; and

¹⁹⁸ Ibid., 297-298.

- As it happened, Whipple was a mixed-blood Cherokee who had been adopted earlier as a tribal member in exchange for his services as an interpreter to the Southern Kickapoo.¹⁹⁹

To summarize, after multiple unsuccessful negotiating forays, the indignant members of the Jerome/Cherokee Commission literally stole the Deep Fork reservation. They brazenly relied upon coercion and a transparently forged agreement to achieve their purpose. Upon completion of the forced allotment of the Southern Kickapoo reservation, only 18,000 acres were assigned to enrolled tribal members in 80-acre individual allotments, thus freeing up the remaining 188,000 acres of the reservation to be declared surplus, sold at the price of 30 cents per acre, and open to non-Native homesteading and development. It is important to note that surrounding tribes had been paid \$1.50 per acre for their surplus lands.

[SIDEBAR: Charles Curtis: Indian Enabler, ‘Apple’ of Shameful Southern Kickapoo Displacement]

The ways in which many Native Americans view their own leaders and represent themselves change over time, perhaps even more than non-Native understanding and representation. For example, these days one can hear and read of this or that particular Native American characterized as an apple, meaning someone red or Native American in heritage and appearance, but Euro-American/white in his/her outlook and life ways. This treatment is akin to one African American referring to another as an Oreo, meaning black or African - American in heritage and appearance, but Euro-American/white in outlook and life ways.

By this vernacular standard, Charles Curtis, former U.S. Representative and U.S. Senator from Kansas and the 31st Vice President of the United States having served with

¹⁹⁹ Ibid., 297-304.

President Herbert Hoover from 1929-1933, is quite likely viewed as an apple in much of Indian Country today. He remains the first and only person with substantial Native American ancestry—his mother was three fourths Kaw, Osage, and Potawatomi heritage—to serve in either of the two highest executive offices in the U.S. government. Certainly, he was no friend of the Kickapoo people in their ongoing quest to preserve their traditional culture and practices.

True to his own personal upbringing and political views, he pushed hard throughout his long congressional career for policies to compel all Native Americans to embrace Euro-American education, vocations, and assimilation into mainstream non-Native society. For example, in January 1895, as a relatively young Republican Congressman from Kansas, Curtis sponsored legislation demanding to know why the U.S. Department of the Interior had been so slow in allotting the Southern Kickapoo reservation in Oklahoma Territory and opening the remaining surplus lands for homesteading.²⁰⁰ As a friend and political ally of the conniving BIA special agent Martin Bentley, he went out of his way to use his growing influence in our nation's capital to press for swift and resolute action to overcome Southern Kickapoo resistance.

More specifically, he became the principal recipient of white settlers' petitions seeking access to as much of the surplus land on the Southern Kickapoo reservation as attainable for settlement because he was seen nationally as the homesteaders' friend on Capitol Hill. He used those petitions, in turn, to build mounting pressure on the Interior Secretary to "use all dispatch in bringing the Southern Kickapoo under control, to meet the homesteaders' demands for an early opening, and to induce President Cleveland to proclaim the surplus lands open for homesteading."²⁰¹

²⁰⁰ Ibid., 309.

²⁰¹ Ibid., 310.

On May 18, 1895, U.S. President Grover Cleveland declared the surplus lands open for non-Native settlement and commercial development. Opening shots rang out on May 23, 1895, at high noon and a noisy army of 10,000 would-be, non-Native settlers poured into what had been the Deep River reservation to stake their land claims. It was the most anticipated and last land rush of its kind in the Euro-American settlement of Indian Territory. Eradication of the Southern Kickapoo was predicted and celebrated as a triumph of white civilization and culture. According to the editor of the *Kansas City Star*, “the land rush would wipe out the name Kickapoo, so that eventually it would be dropped from history and from the memory of man.”²⁰² The widespread violence, unrestrained “Soonerism” in what was to become the State of Oklahoma in 1907, and innumerable claims disputes associated with this particular land rush prompted agents of the U.S. General Land Office to subsequently adopt more measured approaches such as lotteries and actions for the disposition of federal lands going forward. In hindsight, the official theft, forced allotment, and sale of most of the Southern Kickapoo reservation between 1893 and 1895, which had been orchestrated unilaterally and in bad faith by the U.S. commissioners acting in concert with Hill, set in motion a downward-spiraling, drawn-out nightmare of annuity fraud, land theft, double-dealing, and costly lawsuits that ensnared the Southern Kickapoo until 1915.

²⁰² Ibid., 313-314.

PART IV
ATTEMPTED CULTURAL GENOCIDE

CHAPTER 16

‘KILL THE INDIAN IN HIM, AND SAVE THE MAN’

Once the U.S. government stopped treaty-making in 1871 and most tribes had been moved to assigned reservations by the close of that decade, Christian missionaries stepped up their close collaboration with federal agents on wide-ranging efforts to “civilize” Native Americans and transform them from “savages” into upstanding, law-abiding contributors to mainstream American society. U.S. Army Captain Richard Henry Pratt, a leading proponent of assimilation by any means necessary at the time, capsulized prevailing non-Native sentiments inside and outside the halls of government: “A great general has said that the only good Indian is a dead one, and that high sanction of his destruction has been an enormous factor in promoting Indian massacres. In a sense, I agree with the sentiment, but only in this—that all the Indian there is in the race should be dead. Kill the Indian in him and save the man.”²⁰³

As the reader will learn, the Northern Kickapoo responded very differently to the designs of the U.S. government during the Assimilation and Allotment Era than the reconstituted Southern Kickapoo on what remained of their respective Kansas and Oklahoma reservations. While the Northern Kickapoo in Kansas had already served as guinea pigs of sorts for assimilation and allotment policies decades before the enactment of the Dawes Act of 1887, on-going federal efforts to achieve those goals greatly intensified thereafter. One particularly revealing vantage point on the social experimentation and indoctrination they experienced in the ways and means of non-Native “civilization” on the Kansas reservation was documented and photographed by Milo Custer and Ernest L. Hoppe in the early 20th century.

²⁰³ Official Report of the Nineteenth Annual Conference of Charities and Correction (1892), 46-59. Reprinted by Richard H. Pratt, “The Advantages of Mingling Indians with Whites,” *Americanizing the American Indians: Writings by the “Friends of the Indian” 1880-1900* (Cambridge: Harvard University Press, 1973), 260-271.

Their work exemplified intrusive scavenger anthropology and amateurish historiography, as they were commonly practiced at the dawning of the 20th century. It was unearthed and featured in an engaging exhibit at the McLean County History Museum in Bloomington, Illinois, from 2008-2009.²⁰⁴

[SIDEBAR: Non-Native Practitioners of Cross-Cultural Snooping]

Milo Custer was born on January 21, 1879. He was an active member and principal custodian of the McLean County Historical Society in Illinois from 1909-1917. Later in 1917, he incorporated a spinoff organization—the Central Illinois Historical Society—which specialized in genealogical research. Many of his writings were published in quarterly publications and he also received special recognition for his compendium entitled “Pioneer Portraits.” He died on March 13, 1952.

During his tenure with the McLean County Historical Society, Custer received funds to travel to Brown County, Kansas, for a two-week visit in 1906, to compile records of the lifeways of the Northern Kickapoo, who had been forced to move there. That project was of keen interest to George Perrin Davis, who was one of the principal founders of the local historical society and well-known across Central Illinois. Parenthetically, he was also the son of the prominent Judge David Davis, who was instrumental in the presidential nomination of Abraham Lincoln in 1860. As the sitting president of the local historical society at the time, Davis helped raise funds for many philanthropic projects, including Custer’s amateur ethnographic undertaking. Before

²⁰⁴ *Unconquerable: Photos and History of the Kickapoo Indians (2008-2009)*, <https://mchistory.org>. This exhibit explored the history of the Kickapoo Indians—their movements across the prairie, their lifeways, their interactions with early settlers, and their forced removal to reservations west of the Mississippi River. Researched by Librarian/Archivist Bill Kemp and curated by Curator Susan Hartzold, it featured the photographs commissioned by Milo Custer, an early curator for the McLean County Historical Society, whose efforts to document these people resulted in the underpinning body of work. Also, Scott Wagner served as an intern/researcher for the exhibit displayed at the McLean County Museum of History in Bloomington, Illinois, between 2008 and 2009.

Davis' death on January 12, 1917, he received from Milo Custer many photographs and documented accounts of Northern Kickapoo culture and life.

Custer's records of his visits to the Northern Kickapoo reservation in 1906 and 1909 and related publications are extensive.²⁰⁵ In addition, his personal notebooks are revealing, as is the post-visit correspondence between him and George Remsburg, a fellow non-Native scholar who lived in Oak Hill, Kansas. Together, these primary sources impart very useful context for what Custer witnessed, recorded, and chose to have photographed while a guest among the Northern Kickapoo.²⁰⁶

More specifically, shortly after his return to McLean County in 1906, Custer began correspondence with Remsburg, who had helped him with some accommodations and supplemental information during his visit to the reservation, but who had been unable to meet up with Custer during his twelve-day trip. In their exchange of letters, Custer often complained of the limitations imposed on him during his stay among the Northern Kickapoo. He claimed that if he had only been allowed to research and write freely about the tribe, they would both have benefited tremendously. Unfortunately, many of the tribal elders and leaders, including Custer's guide, John Masquequa, had not been very forthcoming, shared only general information, and had been extremely resistant to Custer's prodding to volunteer more in-depth background about tribal traditions and cultural practices. Custer reiterated many times to Remsburg that tribal reliance upon "superstition and abnormal beliefs" inhibited his ability to obtain more valuable materials from the Northern Kickapoo. Nevertheless, it is also worth noting that copies of his

²⁰⁵ Milo Custer, Kickapoo Manuscripts, McLean County Historical Society, Boxes 6 and 8.

²⁰⁶ Milo Custer and George Remsburg, Kansas Kickapoo Collection Manuscript Correspondence, McLean County Historical Society, Bloomington, Illinois.

related correspondence with federal officials of the U.S. Interior Department and the Bureau of Indian Affairs in the collection are helpful.



Milo Custer, archivist of the McLean County Historical Society in its earliest days. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.

Ernest Hoppe was born in Germany on September 5, 1851. He immigrated to the U.S. and became a citizen in 1882. He was fifty-five years old, married, living in Horton, Kansas, nearby the Northern Kickapoo reservation, and had one son also named Ernest, when Custer hired him as a well-regarded professional photographer in 1906. In addition to hiring Hoppe, Custer also employed a local Kickapoo man named Arthur Whitewater, who served as a translator and part-time writer and was thought to be knowledgeable about the background of the tribe.

In one of his journals, Custer described Hoppe as “a jovial, quick, and nervous gentlemen.” When interviewing and discussing the project that they would be pursuing together, Custer noted that Hoppe’s opinions about Indians were “typical,” which, for the time and places in which they were living, meant “semi-serious and semi-comic.”²⁰⁷

²⁰⁷ *Unconquerable.*



Ernest L. Hoppe, a professional photographer whose Kansas studio was nearby the Kickapoo reservation and who Custer hired to photograph tribal members with whom he interacted. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.

I am indebted to the very helpful staff of the McLean County Museum of History, who researched, curated, and presented the aforementioned exhibit on the Northern Kickapoo.²⁰⁸ I draw heavily upon their excellent work in the following narrative and corresponding photography derived from the early 20th century visits that Milo Custer and Ernest Hoppe made to the Kansas reservation.

On October 2, 1906, Custer arrived on the Northern Kickapoo reservation and took up lodging at the Kickapoo school. He was surprised when he first observed that the clothes worn by many of the school children and the faculty looked like those worn by students and teachers in non-Native schools. Most of the men and boys were wearing conventional pants and shirts in addition to large black hats. The women and girls predominately wore mainstream, American-style dresses. Classroom activities reflected gender roles as commonly defined in non-Native customs. The boys' education was focused upon farm life and farming methods, hunting, outside sporting activities, and schoolwork. The subject curriculum included instruction in reading, spelling, penmanship, history, grammar, physiology, geography, and drawing. Meanwhile, the girls' education was focused upon learning about domestic chores such as cooking, sewing, and cleaning.

Custer met and visited with the daughter of a well-known Kickapoo tribal leader, Chief Mecina. Nubya Eshnoqua, who at the time was eighty-eight years old, wore a traditional calico dress, moccasins, and a black kerchief. She shared information with him about the Church of Kennekuk, to which her father had converted. With this background information, Custer was

²⁰⁸ By name, I want to especially recognize Greg Koos and Adam Lovell, past and current executive directors; Susan Hartzold, curator; Bill Kemp, librarian; George Perkins, archivist; Jeffery Woodard, marketing and community relations director; and Scott Wagner, former intern and research assistant.

equipped with a little more understanding of what he needed to know when he visited the old church.

In his description, Custer noted that the one-room church to which he was guided by John Masquequa was perched on a rise. It was very small and largely unadorned on the inside. He was told that it had been built by Potawatomi allies of the Northern Kickapoo and from whom a spiritual leader was chosen to succeed Kennekuk after his death.

An interesting anecdote about the church that Custer was told by guide Masquequa, was that bark imagery had been peeled off the exterior of the church in connection with “correctional” instruction and in furtherance of non-Native assimilation. After many years of complaints by tribal members, Masquequa also told him the overbearing religious censorship finally stopped. Custer was also shown a small burial ground located nearby the church. He commented in his notebook that the mound grave seemed “genuinely Kickapoo” to him.

On October 3, 1906, Custer was chastened by a testy encounter with a traditionalist elder named Mahkuk, who also went by the colloquial name of Old Jesse. During their interview, Custer questioned him about the privacy of some tribal cultural practices and the sanctity of tribal artifacts. Mahkuk pointedly challenged Custer on why he wanted written copies and translations of Kennekuk’s religious doctrines. Custer tried repeatedly to reassure Mahkuk that he did not want to sell the materials for profit and sought to use them purely for “historical purposes.” In response, Mahkuk explained to Custer that the materials and artifacts of Kickapoo culture that he was requesting had never been translated into English and that he was worried that sharing them might disturb the spirit of the Kickapoo Prophet. In fact, Mahkuk went further and asked that Custer return a prayer stick in his possession to the tribe, which had been given to him by a preacher and which had also been used in Kennekuk’s ceremonies. After some verbal

sparring, Mahkuk offered to share translations of some of Kennekuk's teachings, if Custer would return the prayer stick. Custer refused the offer and pivoted to offer money in return for the written translations. That counteroffer was emphatically rejected by Mahkuk.

Despite the rocky beginning of the interview, Mahkuk and Custer resumed a discussion about Kennekuk and his leadership of the Praying Kickapoo. According to Mahkuk, Kennekuk had four wives during his life span and claimed to have predicted his rise to prominent leadership among the Kickapoo people in the early 1800s. His greatest goal had always been to lead his people in a return to their ancestral lands in Illinois, where he felt they truly belonged. After his interview with Mahkuk, Custer very briefly met one of Kennekuk's grandsons, Commodore Catt Optukkee.

Toward the end of the same day, Custer was visited the Presbyterian Mission, established in 1860. He was told that the Northern Kickapoo had four seasonal dances during which they danced for a few days in the Dance Ring or Dance Ground. The church members had divided into two bands: the devout Church Indians and the more traditional Dance Indians. It was also underscored to him again how devoted Chief Mecina was to that church and how he attended all the prayer meetings.

On October 4, Arthur Whitewater, a local Kickapoo man who had been hired by Custer to serve as a translator and part-time writer, introduced Custer to another Kickapoo man named Pasconett, who guided and shared with Custer pertinent information about many of the customs and traditions associated with the places they toured that day. For instance, Pasconett described the tradition of making young Kickapoo boys fast without food or water for four days. If any of the boys dreamed about finding arrowheads during this time of deprivation, that was a sign that they would become great warriors. When discussing the changing landscape of prayer rituals,

Pasconett also told him that the once flourishing church of Kennekuk was dwindling in membership. Only three extended families claimed to be members at that time, whereas many others had aligned themselves with the Dancing band within the tribe. In his notes, Custer commented upon the astonishing popularity of what he deemed to be a “backwards, primitive custom.”²⁰⁹

Before proceeding to speak to the children at a Kickapoo school about *their* tribal history in Illinois, Custer inquired as to whether they would understand or be able to respond in English. Whitewater and Pasconett told him that even though many of the children could speak their Native Kickapoo tribal language, they chose not to do so. In fact, they told him that there were only four students who could not speak any English at all. Custer heartily endorsed the prescribed cultural separation of the youth from their parents and ancestors who had resisted assimilation. In his remarks, Custer made clear his views that “civilization had brought much to the Indian, but he is still an Indian.” He made no secret that he held little regard for many of the rituals or customs of the Northern Kickapoo. Before ending his day, Custer and his companions visited Atchison County, where Pasconett directed him to the burial site of Chief Mecina, which was marked with a pole.

During the following week, Custer was introduced to additional Kickapoo traditions and customs. He also recorded numerous anecdotes in his notebooks. For instance, he was surprised to learn that Chief Mecina and Mahkuk regularly dressed like the white man and that Chief Mecina had always considered himself to be a friend of the white man. He also discerned what he believed to be a growing religious divide within the tribe. His suspicion along this line was

²⁰⁹ Milo Custer, Kickapoo manuscripts, McLean County Historical Society, Bloomington, Illinois, boxes 6 and 8.

heightened by his conversations with Masquequa, who was a spiritual leader within the tribal community and preached in much the same manner that Kennekuk had.

On October 8, George Masquequa, a relative of John Masquequa, confided in Custer that many of the young men in the tribe did not participate in the annual dances out of any undying loyalty to the dancing tradition, but rather as a means to meet young women. That assertion served to reinforce Custer's dim view of the dances, manifesting the savage nature that still resided within an increasingly assimilated people. Curiously, Custer also made specific note of what he deemed to be the "incessantly obnoxious habit of tobacco chewing among the Kickapoo that was associated with these dances." This practice was taken very seriously by the Kickapoo, who spent much time carefully cutting and painting the stems, usually either blue or red. Together, men and women participated in either smoking or chewing tobacco. He interpreted the pipe smoking as eliciting feelings of resentment among some tribespeople, possibly attributable to constant cross-cultural intrusion and forced removal from their ancestral homelands. Overall, Custer disdained the dancing rituals of the Kickapoo. Even though Custer was only allowed to observe some of the tribal dances and not allowed to do any truly substantive research on their cultural significance, he concluded for himself, nevertheless, that they were not in any way "civilized." As an outsider, he held the church Indians in higher regard comparatively, while still considering them to be a "backwards" lot who were still hindered by "ancient rituals."

In the closing days of his 1906 visit, Custer came to the overarching conclusion that the Northern Kickapoo were a tribe still very conflicted internally about their past and their prospects for the future. As bolstering evidence of the contradictory cultural crosscurrents, he recounted how profoundly surprised he was when informed that some tribal members still possessed scalps of white victims who their ancestors had killed. Those artifacts were valued as

symbolic trophies of another time by many of the elders. While traveling with Masquequa the next day, Custer was reminded that the tribe resolutely retained their belief in the four sacred spirits residing in the north, south, east, and west. Yet, Custer observed that the “shadow of Kennekuk” was ever present. From his non-Native perspective, the Kickapoo Prophet’s lasting influence manifested itself in his admonition to the tribe to make and wear certain types of traditional beadwork on their outerwear, while also directing them to dress in the “garments of civilization.”

In important ways, the respective skills that Custer and Hoppe brought to their project were complementary. They also served to reinforce one another’s cultural biases in the ways they wrote about, photographed, and subsequently presented their findings for posterity.

Near the end of Custer’s visit, Hoppe presented him with the remainder of his photographs to be included in the project’s collection, along with the first-handwritten accounts. He had used his personal studio to develop his photos, while also occasionally traveling to the reservation to round out and complete his work. For his professional services, he was paid the handsome sum of eight dollars and fifty cents. After receiving the remainder of the photos from Hoppe, Custer added a written description to accompany each of them.

While Hoppe shared many of the same non-Native prejudices and sensibilities that Custer brought to their project, it is also very important contextually to understand that they were very much in keeping with non-Native ethnographic practices and historiography of the time and at-large in mainstream society.

Photography of Native Americans became very popular in the early 20th century. In particular, the work of Edward S. Curtis was widely embraced and celebrated. Between 1907 and 1930, Curtis photographed members of numerous tribes across the country in what purported to

be natural sittings and settings, and he compiled them into a collection entitled *The North American Indian*. He sought to capture and depict for the general public the essence of what he deemed to be the “vanishing Indian,” before it was gone forever. His work became a professional benchmark and Hoppe, among many other photographers, adopted and imitated it. However, Curtis’ approach—and Hoppe’s by extension—has not withstood the passage of time. It has come under increasingly withering and on-going criticism for manipulation of his subjects, abject staging, virulent stereotyping, and stilted pathos for the “noble savage.”²¹⁰ More fundamentally, it reflects a period in our national history when many non-Native Americans were encouraged to righteously believe that it was inevitable, if not unquestionably acceptable, for Indians to have been systematically displaced from their homelands, forcibly removed to assigned reservations, socially marginalized, culturally devalued, and compelled to assimilate.²¹¹ To some of his harshest critics, Curtis’ photography seemed to be rooted in faith in Social Darwinism and the Jim Crow attitudes, which were so commonplace within dominant Euro-American culture at the time.

Custer returned to the reservation for a brief time in 1909 after his twelve-day visit in 1906. He noted that inexplicably none of the faculty who were teaching three years earlier were still there on his second visit.

²¹⁰ For further reading, see Christopher Pinney and Nicolas Peterson, eds., *Photography’s Other Histories* (Durham, N.C.: Duke University Press, 2003); Paula Richardson Fleming, *Grand Endeavors of American Indian Photography* (Washington, D.C.: Smithsonian Institution Press, 1993); Lucy R. Lippard, ed., *Partial Recall: With Essays on Photographs of Native North Americans* (New York: The New Press, 1992); “New Questions for Old Images: Recent Contributions to the History of Photography of Native Americans,” by Ira Jacknis in *Current Anthropology* 46 (June, 2005), 1-4; “Touring An Other’s Reality: Aborigines, Immigrants, and Autochromes,” by Colleen Skidmore in *Ethnologies* 26 (2004), 145-164; and “Vanishing Point: Images of Indians and Ideas of American History,” by Louis S. Warren in *Ethnohistory* 46 (Spring, 2009), 361-372.

²¹¹ Robert Berkhofer, Jr., *The White Man’s Indian: Images of the American Indian from Columbus to the Present* (New York: Knopf, 1978), 71-104.

Back in Central Illinois, Custer recorded that the results of his research were well-received. He touted that he had discovered useful information regarding the letters of one of Kennekuk's grandsons. He was proud that he had been given a prayer stick in addition to finally being able to reach an agreement to obtain a copied English translation of the doctrines from the Church of Kennekuk. Hoppe's photography also supplemented Custer's writings with important visual imagery. Custer indicated that he wanted George Remsburg to visit Bloomington, Illinois, in order to acquire a more complete exchange of information relating to the Kickapoo. While that exchange visit did not happen, Custer foresaw that it would have been very helpful to him and others in the development of future publications about his experiences.

GALLERY



Eighty-eight-year-old Nubya Eshnoqua, the daughter of Chief Mecina, with her walking stick and two of her grand-daughters, Kawkeasaukqua and Keepoakua. They are wearing non-Native style dresses, but Nubya is also wearing a traditional Kickapoo bandana. To many of the Northern Kickapoo, Nubya embodied a strong connection to their traditional cultural traditions because of her ancestral lineage and her birth in Illinois. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



John Masquequa, one of Custer's guides, is pictured beside his wife. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



*An old one-room church on the Kansas reservation with gravesites in the foreground.
Source: Photographic collection in archives of the McLean County Historical Society in
Bloomington, Illinois.*



Commodore Catt Optukkee, Kennekuk's grandson, with his wife and son in 1906. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



A missionary named C. Bowers, her son, and Milo Custer standing in front of the Presbyterian Mission established on the reservation in 1860. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



Mkopahmah, also known as the Bear Chief, shown standing in a statuesque-like pose in full garment wear. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



James Allen and his wife shown in a similar statuesque pose. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



An elderly Kickapoo woman named Kachassa pictured in a calico dress and large shawl with an unidentified woman and young girl. According to Custer, she was the daughter of Kaamakum, a tribal leader who was born in Illinois and died on the Kansas reservation. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



Kaukeasauqua, one of the great granddaughters of Chief Mecina, pictured in the company of her husband, Weeweenas, and her son, Neepahua. Much like the majority of traditional Kickapoo women, Kaukeasauqua is exhibiting a scarf type of outerwear around her neck. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



Three Kickapoo men known as Jack Masquat (Nenawa), Willie Whitewater, and Nenasek (Little Simon) exchanging a pencil and a notebook. They are wearing non-Native conventional vests and long dress suits. Willie Whitewater (shown pointing) is also wearing a hat. In an interesting twist, a train conductor's hat is placed in the forefront as a prop of some sort without any written explanation. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



*Susan Masquequa with a young woman, Blanche Cadue, and an unidentified child.
Source: Photographic collection in archives of the McLean County Historical Society in
Bloomington, Illinois.*



John Masquequa is again shown among friends, some of whom are Potawatomi. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



A Kickapoo man named John Tainan and his wife wearing traditional clothing. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



Four young Kickapoo men positioned around a table in what appears to be a discussion. A couple of these men have been mentioned previously. Little Simon and interpreter and part-time scribe for Custer Arthur Whitewater are gazing up at Mitchell Peewamo. Also staring up at Peewamo is Emmett Masquequa, son of John Masquequa. They are surrounded by what appears to be various writing devices such as notebooks, pencils, and supplemental literature. From this vantage point, it appears what Hoppe and Custer are trying to portray that they are the up-and-coming leaders of the Kansas Kickapoo. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



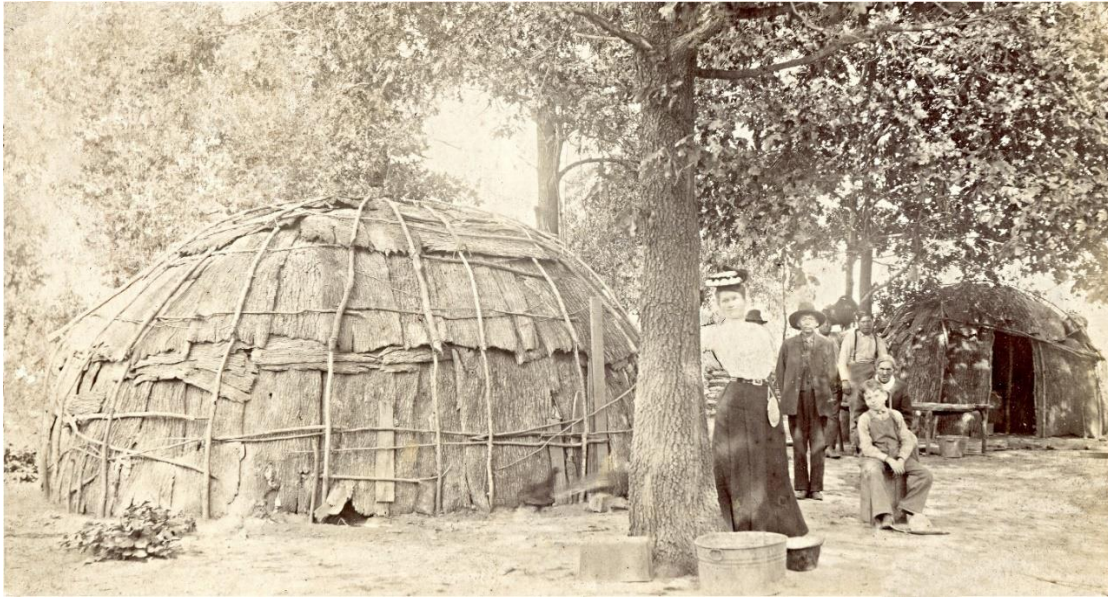
A Kickapoo woman named Mashawes (right) seated beside a Potawatomi woman named Sosett. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



An elderly woman named Papoone wearing traditional clothing. She was the daughter of a tribal leader named Pashell. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



Commodore Catt Optukkee, grandson of Kennekuk. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



Custer described the home of Andrew Magozee as a traditional Kickapoo Indian pole-and-bark dwelling. The people in the image include Magozee's wife, Ahtsch, and a few relatives standing in the background positioned alongside the house. Custer listed the surrounding objects as another nearby dwelling, a stack of logs, and a water basin. Both dwellings are located among many trees in what appears to be a heavily wooded area. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



To draw contrast to the traditional dwellings, Hoppe also took a corresponding picture of the former house of Custer's guide, John Masquequa. Custer noted the transition to a modern style house as evidence of progress toward assimilation. In the photograph, three Kickapoo men are pictured standing/sitting on the porch in addition to three others apparently getting ready to leave in a horse-drawn carriage wagon. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



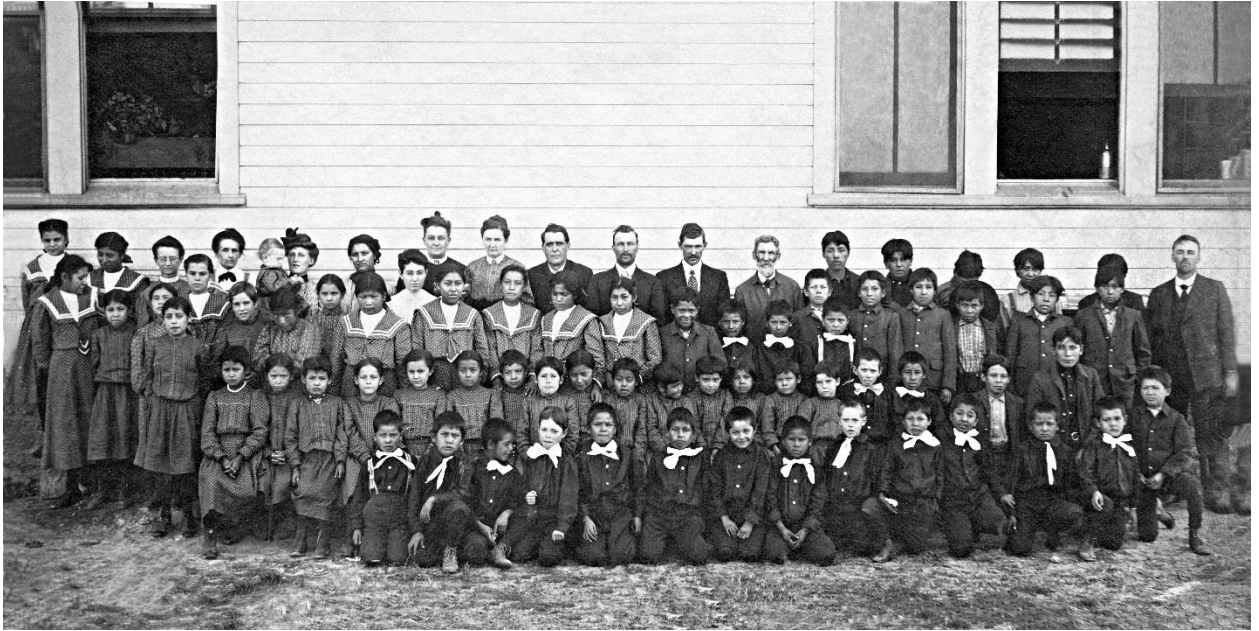
Hoppe photographed what Custer believed to be the house of Weewreenar, who was the husband of Kawkeasaugua, who, in turn, was thought to be a descendant of Nubya, and thus Chief Mecina. Due to incomplete information and poor family record-keeping, Custer was not able to come to a definitive conclusion about the family relationships. Weewreenar stands near the porch with an elderly relative next to him. Also, once again, Custer put himself in the photo, standing off to the right of the Kickapoo. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



This 1904 photo was obtained by Custer and included in the collection. It shows a large Kickapoo Training Center, which functioned de facto as home to many of the tribal children during their waking hours. The students were positioned upon the railing entrance to the building. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



Hoppe obtained a 1904 photo of an estimated twenty to twenty-five mostly young Kickapoo children sitting attentively in their chairs, while their teacher stood in the background. Their teacher, Mary E. Allison, was a middle-aged white woman from Jeffersonville, Indiana. Also, there appeared to be a few white children included in the classroom. The young girls were all wearing full-body aprons over their clothes. Several of the Kickapoo boys were wearing scarves tied in bows around their necks. Curiously, none of the white boys had scarves. Whether this was prescribed policy or a coincidence is unknown from Custer's notes. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.



Caption: Hoppe captured the entire student body as well as the faculty in an October 1906 photo. This was taken at a Presbyterian Mission and included scholars, officers, teachers, and other educators, as well as roughly forty kids pictured outside of the schoolhouse. Source: Photographic collection in archives of the McLean County Historical Society in Bloomington, Illinois.

CHAPTER 17

BREATH-TAKING THIEVERY

What happened to the recalcitrant Southern Kickapoo on their Deep Fork Reservation in Indian Territory was truly appalling, especially once their land was allotted against their will as the 19th century was drawing to a close. One would be hard pressed to find a more egregious example of shameless exploitation and cynical manipulation of vulnerable people from the individual to the highest official levels of government in the entire sordid history of relations between Native and non-Native Americans.

Certainly, the Southern Kickapoo did not look to 42-year-old Theodore Roosevelt, the 26th President of the United States, for empathy or solace, let alone any justice. Not long after assuming office in 1901, he made the following policy pronouncement: “In my judgment, the time has arrived when we should definitely make up our minds to recognize the Indian as an individual and not as a member of a tribe. The General Allotment Act is a mighty pulverizing engine to break up the tribal mass.”²¹²

The truth of the matter is BIA officials had never relented from their prior efforts to undermine tribal traditions, customs, and religious practices from the moment the Deep Fork Reservation was first established. They also continued to intervene in tribal politics, sowing dissent and encouraging individual tribal members to challenge and discount the authority of the tribal council. Nevertheless, one particularly obdurate tribal faction dubbed the Kickers by U.S. government officials were not about to passively accept their mistreatment. Their leader was Wahpahhoko, who had stubbornly refused since 1894 to accept allotments and had squatted in

²¹² Virgil Vogel, *This Country Was Ours: A Documentary History of the American Indian* (New York: Harper and Row, 1972), 193.

defiance upon land in the northern part of the reservation which territorial government authorities had indemnified for school purposes.²¹³

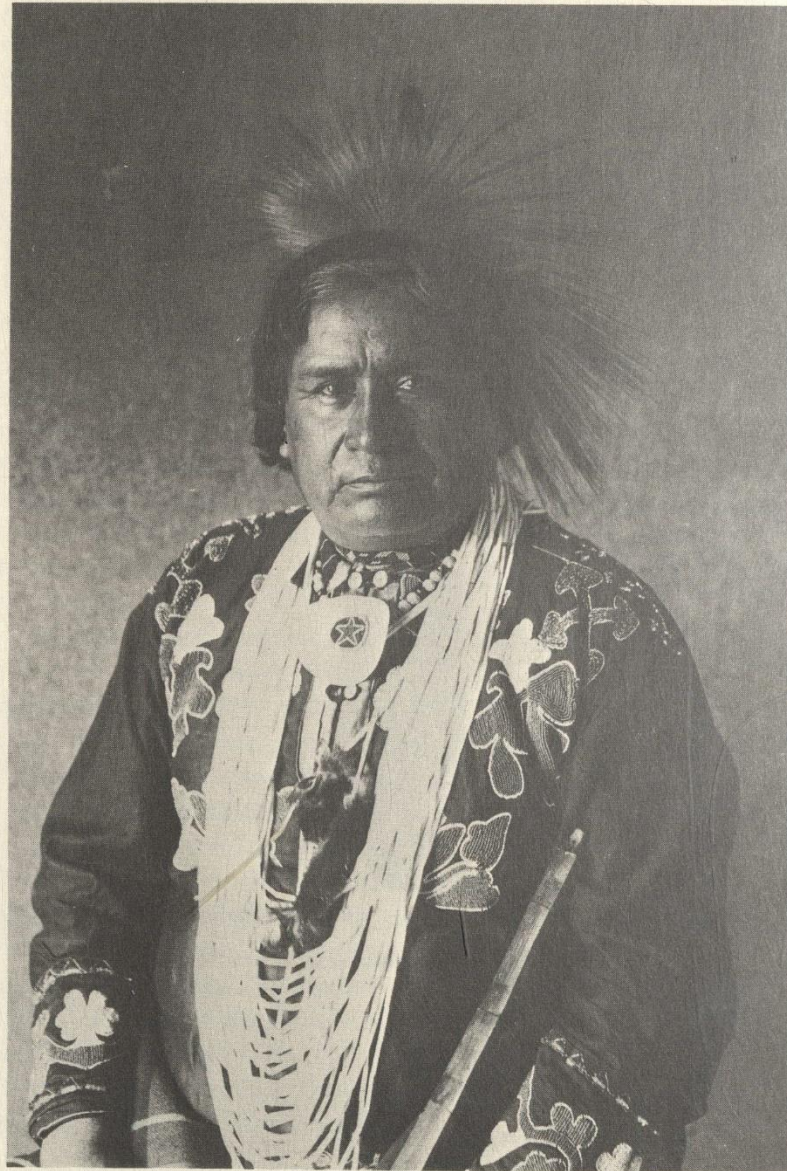
²¹³ A.M. Gibson, *The Kickapoos: Lords of the Middle Border* (Norman: University of Oklahoma, 1963), 305-308.



Courtesy Bureau of American Ethnology

BABESHIKIT, a Kickapoo warrior, 1894. From a photograph by Hillers(?).

Babeshikit, a Kickapoo warrior, in full regalia. Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 81. Courtesy of Bureau of American Ethnology.



Courtesy Bureau of American Ethnology

NIGANITHAT, or He Who Flies First,
a member of the Kickapoo delegation to Washington, April, 1895.
From a painting by Dinwiddie.

Niganithat, or He Who Flies First, was one of the Southern Kickapoo negotiators who sought to stave off allotment of their reservatiuon lands. Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 241 Courtesy of Bureau of American Ethnology.

In response to mounting Kicker petitions of protest and more widespread tribal complaints, Martin J. Bentley was appointed in 1896 to serve as a Special Indian Agent at tribal expense for the Kicking Kickapoos by BIA officials in Washington, D.C. That would prove to be a very problematic development for all the Southern Kickapoo. Tribal leaders had no way of knowing about Bentley's reputation across the Great Plains as a fast-talking attorney and adventurer, who was well-connected to a self-serving pack of unscrupulous attorneys and land grabbers bent upon acquiring wealth and power by any means at their disposal. The corrupt cabal with whom Bentley had an on-again-off-again relationship were based in the territorial town of Shawnee. Altogether, they were destined to become infamous as the Shawnee Wolves because of their prowess in taking advantage of Indian naivete and urgent needs to plunder tribal treasuries and resources like the deposits of coal, lead, zinc, and petroleum, as well as individual Indian estates, with Bentley all the while posing as a defender of tribal sovereignty and rights.

During 1897, Bentley first attempted to ingratiate himself with skeptical Southern Kickapoo by pre-empting federal plans to deploy U.S. Army cavalymen to force resistant tribal members and their families to take up residence on their assigned allotments. Furthermore, he curried favor by pro bono legal defense of tribal members against unlawful whiskey charges and against scheming non-Natives in guardianship disputes involving bewildered tribal families and by securing favorable hunting privileges. Ominously, he controlled the property of nearly every minor in the tribe by 1900.²¹⁴ Nevertheless, a vanguard of landless and despondent Southern Kickapoo began to abandon the reservation and migrate back to Mexico during 1898.

Seemingly unaware of Bentley's opportunism and double-dealing, BIA Commissioner William Arthur Jones expanded Bentley's administrative authority on the reservation, in part, as

²¹⁴ Ibid., 316.

a reward for persuading some of the Kickers to attempt farming on their allotments and make the necessary improvements.



The Sauk were a closely aligned tribe with whom some Kickapoo lived as the Diaspora took full effect. Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 144. Courtesy of Bureau of American Ethnology.

By 1900, however, Bentley's motives and actions came under closer scrutiny. The U.S. State Department had surprisingly discovered that he was in regular communication with Mexican government officials in vigorous pursuit of a land grant with a view toward relocating increasing numbers of disillusioned Southern Kickapoo from their reservation in Indian Territory back to Mexico. He was warned to cease and desist by the BIA Commissioner, who was also under growing pressure from escalating complaints, including some from white lessees who had secured tribal allotments on the reservation. By 1901, Bentley's personal empire-building efforts to gain control of all the tribe's allotments and the related funding stream from Congress were sufficiently unmasked to lead to his dismissal after five years in his post.

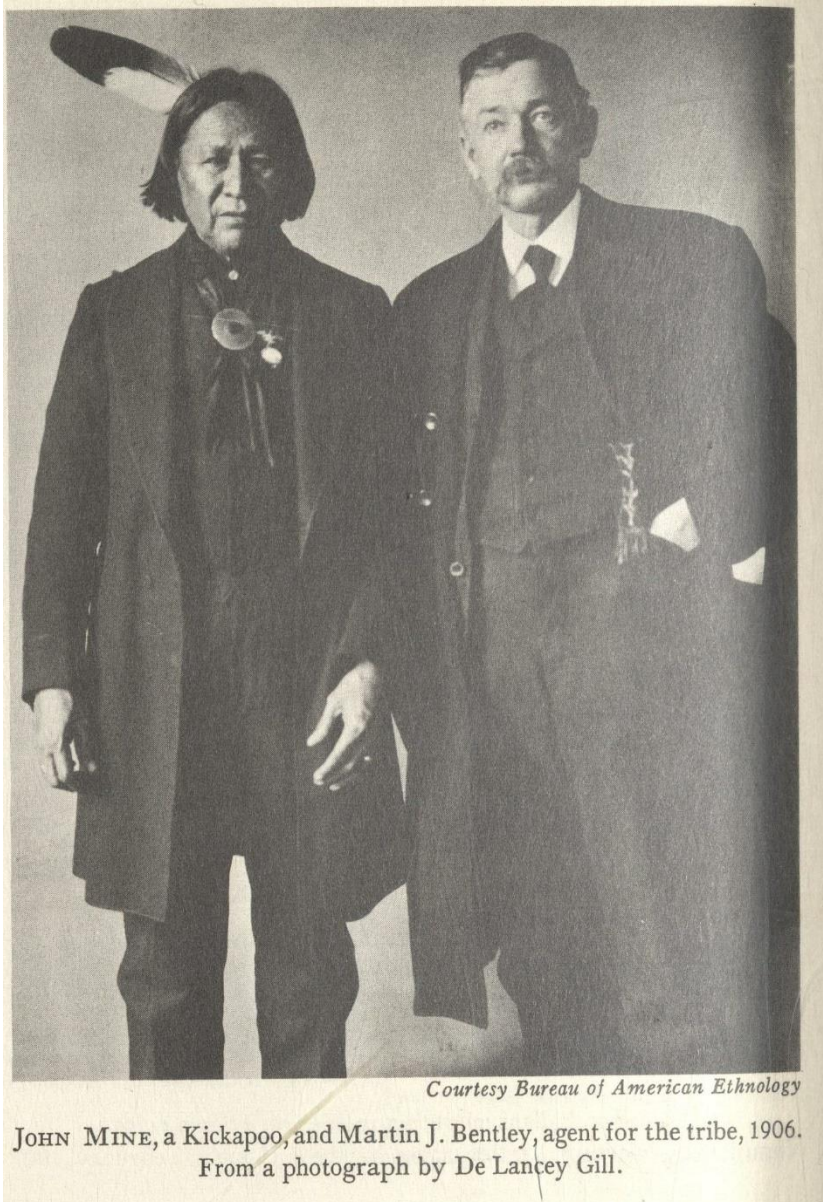
Frank A. Thackery, a long-time BIA employee, was promptly named as Bentley's replacement as Special Agent for all the Southern Kickapoo in 1901. It was a post he would hold for the next 15 years. Meanwhile, Bentley opened a private law office in the nearby town of Shawnee, looking to continue to profit from his on-going privileged relationship as tribal attorney and de facto tribal financial trustee. The stage was then set for a prolonged running battle between Thackery and Bentley over Bentley's incessant scheming to relocate as many Southern Kickapoo back to Mexico as possible, and cash in on their allotments.

Almost immediately, more of Bentley's crooked dealings were disclosed. In 1902, substantial evidence of his deliberate misreporting and mishandling of official tribal accounts were unearthed by internal BIA and U.S. Interior Department investigations. In 1903 and 1904, Thackery reported to BIA Commissioners Jones and Francis E. Leupp that Bentley was working with railroad cronies to divert U.S. government resources from tribal needs and improvements on the reservation to facilitate the relocation of more Southern Kickapoo families to Mexico via Eagle Pass, Texas. While in the same time frame, Bentley was shamelessly orchestrating the

introduction of bills in Congress to lift statutory and regulatory barriers to the sale of specifically targeted allotments on the reservation. He also lobbied for an immediate lump-sum payment to the tribe for sale of their surplus lands and for a one-time compensatory payment of \$215,000 to redress the sinister manipulation of the tribe in conjunction with the fraudulent Hill Agreement of 1891.²¹⁵

Sadly, in 1905, Bentley succeeded in securing congressional enactment of the first bill in the special interest legislative package that he sought, thus clearing the way for the sale of hundreds of additional allotments by Southern Kickapoo to unscrupulous local, non-Native land speculators at rock bottom prices and the relocation of hundreds of landless tribal members to Mexico. But before Bentley could implement his latest scheme, Thackery stepped in and requested that the BIA Commissioner withhold the patents in fee for the targeted allottees and launch new official investigations by executive branch authorities in defense of tribal interests. Predictably, substantial irregularities, extensive deceit, demonstrable abuse of trust and power of attorney, brazen scare-mongering, and outright fraud were discovered on the part of the Shawnee Wolves, in particular, and they were referred to the U.S. Justice Department for possible criminal prosecution.

²¹⁵ Ibid., 327.



John Mine was one of countless Kickapoo whose trust was misplaced in Martin J. Bentley, a corrupt, self-dealing BIA agent of the first order. Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 353. Courtesy of Bureau of American Ethnology.

Despite mounting evidence and public outcry about the expanding scandal, most of Congress turned a blind eye to the corruption and even made matters worse between 1906 and 1909. The rest of Bentley's legislative package was enacted, known as the Kickapoo Removal of Restrictions Act of 1906, making it even easier for him and others to con the dwindling number

of Southern Kickapoo remaining on the reservation out of their land, liquidate their other personal property, and quickly dispatch them to Mexico. His accomplices in Congress even went so far as to award Bentley more than \$26,000 to pocket for his nefarious services.²¹⁶

Not to be outdone in unabashed greed, a pack of at least 15 of the Shawnee Wolves went so far as to travel to Mexico during that time period to undercut Bentley and trick more of the holdouts among newly relocated Southern Kickapoo to sell their allotments in a tit-for-tat bidding war of sorts with Bentley. Forgery, bribery, larceny, physical coercion, and violence were plied to compel nearly all the intimidated tribal landowners to sell their allotments in Indian Territory and relinquish their corresponding deeds. Amazingly, the leaders of that cabal demonstrated their one-upmanship by bribing local Mexican officials to arrest and jail Bentley when the opportunity presented itself.

By 1907, the rank exploitation became too much for a few members of Congress to stomach. More specifically, the U.S. Senate Committee on Indian Affairs launched a high-profile investigation of the Shawnee Wolves among the Kickapoo in Oklahoma Territory and Mexico.²¹⁷ Remarkably, Bentley helped with that investigation and took a close look at counterparts in the U.S. Justice and Interior Departments once he had secured release from a Mexican jail. While the Senate hearings were in progress, he also managed to get himself reinstated as the lead attorney for the Southern Kickapoo allottees, who Mexican officials blocked from resettling at Nacimientto.

²¹⁶ Ibid., 351-356.

²¹⁷ Hearings before the U.S. Senate Committee on Indian Affairs: *Affairs of the Mexican Kickapoo Indians*; November 11, 14-16, 18-20, December 3-7, 1907. 60th Congress, 1st Session.



Courtesy Bureau of American Ethnology

ПЕХКОТАН, a chief of the Mexican Kickapoos, 1907.
From a photograph by De Lancey Gill.

Pehkotah, a highly regarded tribal leader among the Mexican Kickapoo. Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 352. Courtesy of Bureau of American Ethnology.

Having reinvented himself and once again recasting his public persona as that of the protector of the rights and interests of the downtrodden tribe, Bentley helped spotlight and publicize damning evidence that discredited the Shawnee Wolves publicly and led to their financial ruin in ensuing litigation. He also managed to regain congressional esteem for seemingly helping to safeguard tribal interests against flagrant exploitation.

It was not long, however, before Bentley once again resumed functioning like a chameleon in plaid. Appearances notwithstanding, he remained firmly committed in practice to his grand scheme of swapping Southern Kickapoo allotments in the newly established State of Oklahoma for lands in Mexico beyond Nacimiento. Accordingly, he set his sights on wandering, rootless Southern Kickapoo in Mexico, who he persuaded to accompany him to an abandoned ranch in Sonora Province in northern Mexico, just 20 miles south of present-day Douglas, Arizona. Once there, he entered into a trust agreement with dislocated tribal members and appointed himself, his wife, and a former business associate as trustees. Under the terms of the trust, those three individuals granted themselves legal authority to receive deeds for allotments on the Oklahoma reservation, hold them, and subsequently sell them at will. That way Bentley was able to claim a sizable cut in any land sales for his services and use the remainder to buy more land in Mexico on which to settle tribal members urgently in need of any place to live.

Soon thereafter, Bentley returned to the limelight in the congressional hearings in Washington, D.C. to answer allegations of misconduct and personal profiteering from U.S. attorneys representing the BIA. He enlisted the help of two extremely well-positioned allies, U.S. Senators Charles Curtis and Henry M. Teller, to help mount a vigorous defense.

In 1907, a *New York Times* headline helped tell the story: “Defrauded the Kickapoos; Senate committee finds Indians never signed deeds held by alleged owners.” The Dec. 16 article

reported that “Senators Teller, Curtis, and La Follette, composing a committee authorized to investigate the affairs of the Kickapoo Indians, will soon submit to the Senate a report giving the names of several people alleged to have dealt fraudulently with the Kickapoos, who emigrated to Mexico and disposed of their lands at Shawnee, Oklahoma.”²¹⁸

Not surprisingly, when the hearings concluded and a final report was issued in December 1907, Bentley was exonerated in its findings for all practical purposes. The report provided for the following:

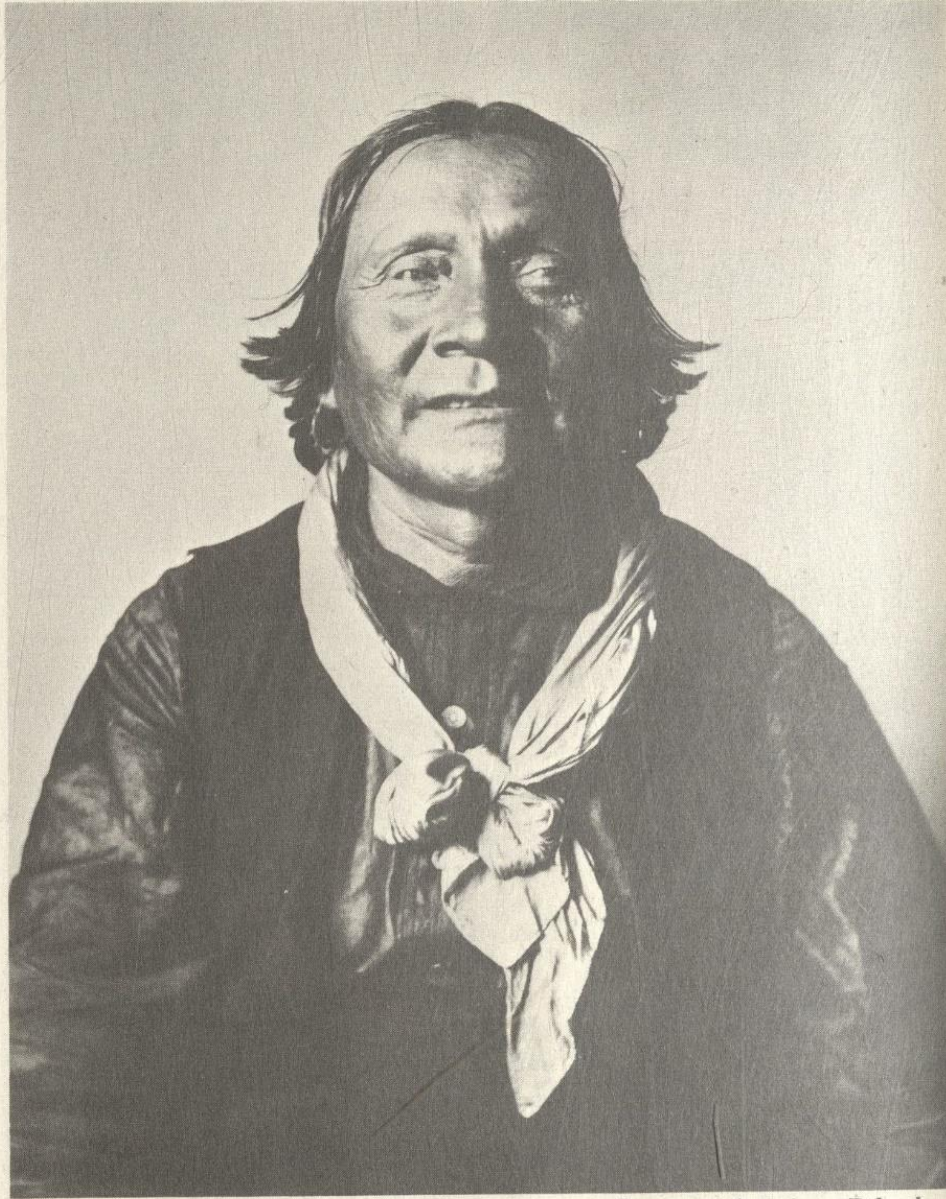
- A very strong denunciation of the Shawnee Wolves;
- A recommendation that a special attorney independent of the Senate investigation be hired by the U.S. Justice Department to spearhead recovery lawsuits to invalidate all ill-gotten land deeds and titles obtained corruptly by the Shawnee Wolves and to recover and rightfully restore the land allotments which had been effectively stolen from unsuspecting Southern Kickapoo;
- Gave measured criticism of Bentley for some of his actions, further tempered by an affirmation that his motives and intentions had always been good; and
- Granted immunity from any legal action for Bentley, his wife, and former business associate for holding the pertinent tribal land allotments in trust for the victimized Southern Kickapoo, thereby granting the three scoundrels a de facto monopoly over all the tribal allotments at issue.²¹⁹

Meanwhile, Thackery kept digging, compiling evidence of Bentley’s wrongdoing, and sharing his findings with BIA and U.S. Justice Department investigators. His goals were to see

²¹⁸ *New York Times*, December 16, 1907.

²¹⁹ Gibson, *The Kickapoos*, 343-346.

Bentley indicted and tried on conspiracy and fraud charges and to bring the Southern Kickapoo back under BIA jurisdiction.



Courtesy Bureau of American Ethnology

O-KE-MA (OKEMAH), head man of the Mexican Kickapoos, Coahuila, Mexico, 1908. From a photograph by De Lancey Gill.

O-ke-ma was an outspoken opponent of the nefarious allotment of the Kickapoo reservation in Oklahoma. Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 353. Courtesy of Bureau of American Ethnology.



Courtesy Bureau of American Ethnology

WAH-PE-CAT-QUA, head chief of the Mexican Kickapoos
from 1901 to 1908.

Wah-pe-cat-qua led his followers to Mexico. Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 272. Courtesy of Bureau of American Ethnology.

But U.S. Senators Curtis and Teller did Bentley's bidding for him yet another time. They orchestrated congressional approval of a \$250,000 appropriation in April 1908, ostensibly for redress of the mistreatment of the Southern Kickapoo on the Oklahoma reservation, but curiously stipulating that the funds be paid to and distributed by a majority of a makeshift tribal council of the dislocated Southern Kickapoo in Mexico. Thackery quickly snapped into action to foil Bentley's behind-the-scenes scheme to gain control of the redress funds. He went to great lengths to rally and have present a voting majority when the makeshift council convened in Douglas, Arizona. Consequently, the \$250,000 appropriation was split with Bentley's group receiving \$90,000 to help underwrite the development of a new Kickapoo colony in Sonora Province in Mexico, while the balance was to be paid on a per capita basis to Southern Kickapoo who had remained on their reservation in Oklahoma.²²⁰ New questions arose and prompted follow-up hearings in 1909 before the Senate Committee on Indian Affairs. In the course of further investigation, Senators Curtis and Teller were implicated in Bentley's influence-peddling conspiracy, including testimony about them receiving bribes Bentley orchestrated reaching as far back as passage of the shameful 1906 legislation.

In 1911, a full hearing was held in federal district court on recovery lawsuits seeking the restoration of one hundred allotments of dispossessed Southern Kickapoo, who were then living in dire straits in Sonora, Mexico. The U.S. District Court Judge ruled in favor of the government prosecutors' position and ordered that the tribal members who had been wronged must have their allotments returned to them free of any and all encumbrances.²²¹ The infamous crooks who had treated the tribespeople so badly forfeited all their money invested in the prolonged Southern Kickapoo land conspiracy. Furthermore, they were ordered to pay all the expenses associated

²²⁰ Ibid., 351-356.

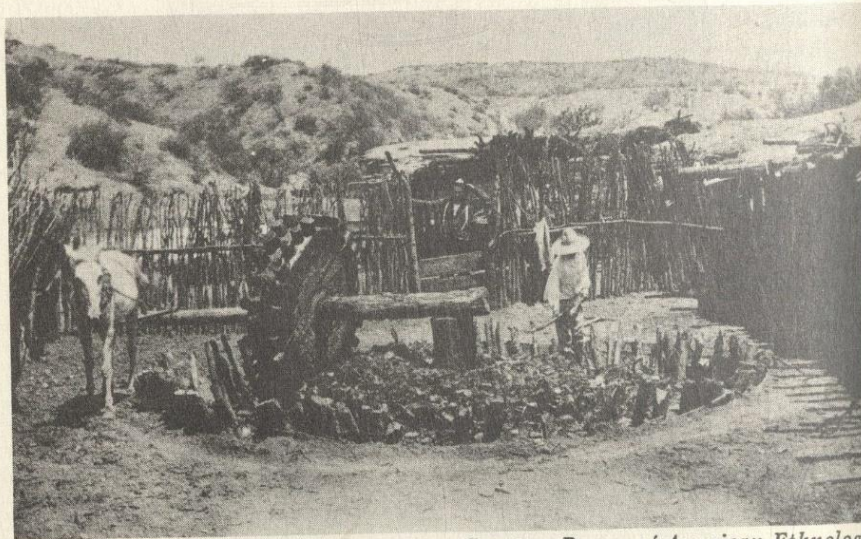
²²¹ Ibid., 358.

with clearing the land titles that they had encumbered by quick sales to unsuspecting buyers as well as all the costs that were incurred by the liquidation of all mortgages then in effect on tribal allotments.



Courtesy Bureau of American Ethnology

Village scenes in the Kickapoo country, Mexico.



Courtesy Bureau of American Ethnology

Mexican Kickapoo were free in El Nacimiento to follow their traditional customs and lifeways.
Source: The Kickapoos: Lords of the Middle Border, A.M. Gibson, p. 273. Courtesy of Bureau of American Ethnology.

By 1914, the Southern Kickapoo arguably had become the most high-profile tribe in the U.S. Their cynical manipulation and ruthless exploitation over two decades had become common knowledge in mainstream American society.²²² A final settlement of their restitution lawsuits was upheld in U.S. Circuit Court, clearing the way for the dispossessed Southern Kickapoo to return from Mexico to their homes and allotments on their Oklahoma reservation. Thackery and the U.S. Justice Department attorneys with whom he had worked so closely for so long were widely hailed for their tireless efforts and for having helped secure a small measure of justice for the adversely affected Southern Kickapoo. By then, however, Bentley had already squandered the \$90,000, which had been intended for the beleaguered tribal members who struggled desperately to survive.²²³

Leery tribal members and their families trickled back to Oklahoma from Mexico for more than a decade thereafter to take up residence anew on their restored allotments on what remained of their Deep River Reservation. They rededicated themselves to the preservation of their traditions and to minimize their interaction with non-Natives as much as possible.

At great cost, the Southern Kickapoo had survived the very painful Allotment and Assimilation Era in Native American history. They remained in open defiance of the prevailing racist views at work in mainstream society in the late 19th and early 20th centuries, as expressed by would-be President Roosevelt in 1891 when he proudly proclaimed, “This continent had to be won. We need not waste our time in dealing with any sentimentalist who believes that, on account of any abstract principle, it would have been right to leave this continent to the domain, the hunting ground of squalid savages. It had been taken by the white race.” One person’s abstract principle, in this tragic case, led to a whole other culture’s systematic dehumanization.

²²² Ibid., 314.

²²³ Ibid., 358-360.

CHAPTER 18

RECASTING IN OUR IMAGE

The twin federal policies of allotment and assimilation proved to be an unmitigated disaster in Indian Country. By the 1920s, the tragic repercussions for the Kickapoo and hundreds of other tribes were apparent for anyone who cared to investigate the matter. The fundamental problem was that very few non-Native Americans cared to look.

In fact, many non-Native Americans believed that Native Americans had long since been conquered and were on the verge of vanishing forever. Recall Edward Curtis' ubiquitous collection of photographs entitled "The Vanishing Indian" that were taken during this time period. The Native land base had plummeted to 2 percent of what it had been, down from 9,355,000 square miles to just 87,800 square miles.²²⁴ Similarly, the total population of Native Americans who had been living north of present-day Mexico in pre-Colombian North America ranged between 2 and 18 million people.²²⁵ But that estimated population had nosedived to fewer than 250,000 living in the U.S. by 1900.²²⁶

Nevertheless, a small number of non-Natives at least remained curious about the peoples who inhabited the places they called home. Some had wide-ranging cross-cultural interests, while others became dedicated artifact hunters and collectors across the landscape. The place where I was born and raised in central Illinois is a case in point. The Livingston County Historical Society owes its very existence to local non-Native residents across ten generations at least.

²²⁴ Rebecca Onion and Claudio Saunt, "Interactive Time Lapse Map Shows How the U.S. Took More than 1.5 Billion Acres from Native Americans," *The Vault* (June 17, 2014), accessed June 3, 2019, http://www.slate.com/blogs/the_vault/2014/06/17/interactive_map_loss_of_indian_land.html

²²⁵ Colin G. Calloway, *First Peoples: A Documentary Survey of American Indian History*, ed. 4 (Boston: Bedford/St. Martin's, 2012), 15.

²²⁶ *Ibid.*, 435.

[Sidebar: Native American Presence and the Creation of Illinois' Livingston County Historical Society]

Euro-American residents of Livingston County in Illinois have been avid private collectors of Indian artifacts found in many fields and along creek and riverbanks since our non-Native ancestors first settled in what was known as Indian Grove in 1829 and which became Fairbury twenty-nine years later. Local folks such Henry J. Mies, J.B. Grotevant, James Smith, Ben Nussbaum, and Edgar Zook assembled extensive and diverse collections of tribal artifacts. In 1948, for example, prominent archaeologists from the Illinois Archaeological Society gathered in Fairbury for a special tribute to Ben Nussbaum, affectionately dubbed "Bannerstone Ben," who had gathered what, at the time, was considered to be the finest collection of large bannerstones in the world.²²⁷



Founding President Rev. Dr. John H. Ryan was elected as the first president of the society. A constitution and by-laws were adopted at later meetings and plans were discussed, approved, and put into action to make the society an integral part of Livingston County's efforts to discover and preserve local history. Source: Livingston County Historical Association, Bulletin No. 1, March 5, 1925.

²²⁷ Pontiac Daily Leader, April 24, 1948.

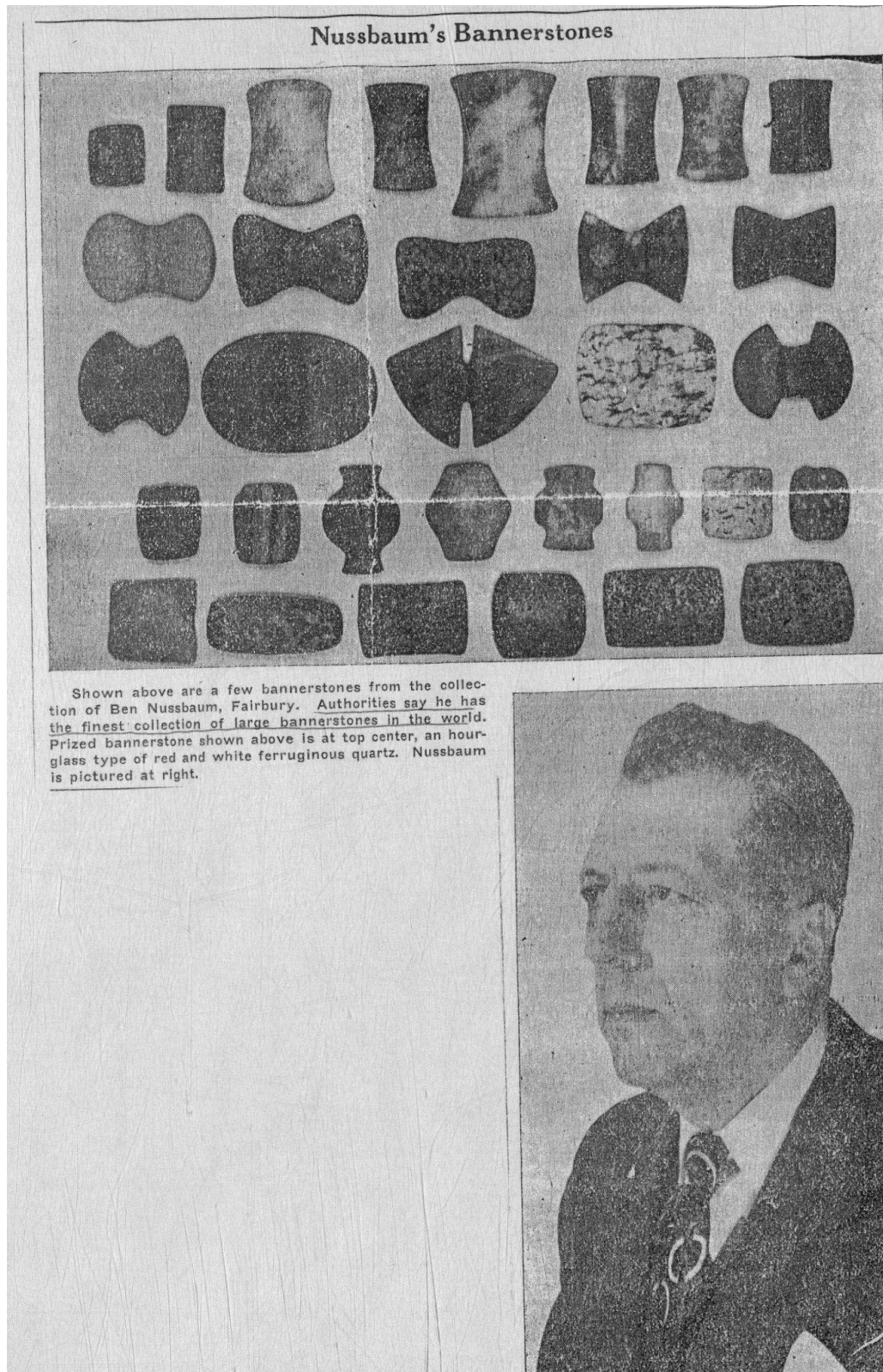
In fact, the Livingston County Historical Society (LCHS) was established in 1925 as a direct outgrowth of widespread interest in the preservation and protection of what remained of physical remnants and artifacts of the diverse tribal cultures whose homelands, for thousands of years, we've inhabited and farmed. Mies who lived in Saunemin Township just east of Pontiac gave such an impressive presentation on the Indian life ways, habits, and history of this area to the Kiwanis Club of Pontiac in November 1924, that club members were inspired soon thereafter to form the on-going LCHS (See Appendix 1). He shared in-depth, non-Native knowledge of local Indian histories that he had acquired through many years of personal research and artifact collection and showed uncommon caring, cross-cultural sensitivity, and respect for protecting and preserving as much physical evidence as possible of the tribal cultures who preceded Euro-American settlement on this land. Following are local highlights of his findings:

- *Indians cultivated sizeable plots of corn in this area long before Euro-American settlers did. As a specific example, the Kickapoo built a storehouse for their crop on Corn Grove in Section 28 of what is now Chatsworth Township;*
- *There was ample evidence of Mound Builder culture(s) in this area centuries before the Illini and Kickapoo tribes. Local burial mounds were discovered and opened prior to 1900, revealing glazed pottery ware, sophisticated ceremonial ornaments, and stone and bone handiwork;*
- *Numerous local artifacts were made of stone that had been transported from afar, such as obsidian, agate, jasper, and hematite, thus confirming that tribes living in this area were part of far-reaching intertribal trade and barter networks;*
- *A cache of 26 pieces of Native spades, or agricultural implements, was found near Ocoya, while smaller caches near Scovel and Cullom yielded arrowheads plus a mortar*

dish, battle ax, celt (a prehistoric stone implement shaped like a chisel or ax head), and arrow;

- *Examples of Indian picture writing and record stones were found in places such as along the north bank of Five Mill Creek;*
- *Indian burial mounds, typically only a few feet tall, were largely obliterated and rendered unrecognizable along the Vermilion River by the clearing of timber and land cultivation. But one very old mound, the Tom Smith Mound, was detected in Avoca Township near the juncture of Indian Creek. Approximately 5 feet tall, it was opened as a cellar and found to contain many different types of artifacts which were subsequently “scattered to the four winds.” This mound was surrounded by a large tribal campground, perhaps the largest in Livingston County; and*
- *Other Indian campgrounds of importance were also located on bench land along the Vermilion River in Amity Township (very rich in finds); at Rollins Grove east of Pontiac along the Vermilion River and where springs are also located (numerous chipped objects and barbs); and in an area of bluff and bench land that is of the old or ancient channel of the Vermilion, near the McCormack homestead south and east of Pontiac, sometimes called the Ox Bow (springs remained present in 1924 and the area yielded Kickapoo and other artifacts).²²⁸*

²²⁸ “Livingston County Historical Association, Bulletin No. 1,” March 5, 1925.



*Ben Nussbaum, local collector of Native American artifacts in Livingston County, Illinois.
Source: Pontiac Daily Leader, April 24, 1948.*

By 1928, however, the ongoing land-swindle that began in the 1890s had become a nationwide scandal and disgrace and could no longer be ignored. That was the year that the 847-page Meriam Report, or “The Problem of Indian Administration,” was delivered to Hubert Work, the exiting U.S. Secretary of the Interior in the Coolidge administration, soon to be replaced by Roy O. West on a recess appointment. The report had been commissioned by the highly regarded Brookings Institution (formerly known as the Institute for Government Research) and funded by the Rockefeller Foundation.

Lewis Merriam was a Harvard-educated scholar, a well-established attorney in Washington, D.C., and a seasoned federal bureaucrat. Work appointed him in 1926 to lead a survey team of “persons highly qualified as specialists in their respective fields, scientific in their approach (not sensationalists), and free from preconceived views and opinions that would interfere with their impartiality and fairness in gathering and interpreting the facts.”²²⁹ The team he assembled included Ray A. Brown (legal matters), Henry Roe Cloud (Indian adviser), Edward Everett Dale (economic conditions), Emma Duke (Indian migration to urban centers), Dr. Herbert Edwards (physician regarding health conditions), Fayette Avery McKenzie (source materials), Mary Louise Mark (family life), W. Carson Ryan, Jr. (education), and William J. Spillman (agriculture).²³⁰ Their charge was to thoroughly investigate the educational, industrial, social, and medical activities of the BIA, as well as the state of Indian property rights and economic conditions.²³¹

²²⁹ Lewis Meriam, *The Problem of Indian Administration: Report of a Survey made at the Request of Honorable Hubert Work, Secretary of the Interior, and Submitted to Him, February 21, 1928* (Baltimore: Johns Hopkins Press, 1928), 57.

²³⁰ *Ibid.*, 59.

²³¹ Donald L. Parman and Lewis Meriam, “Lewis Meriam’s Letters during the Survey of Indian Affairs, 1926-1927, Part 1,” *Arizona and the West*, vol. 24 no. 3 (Autumn 1992): 57.

Their body of work was exhaustive and impressive. It was based upon field work on 95 tribal reservations, as well as in related agencies, hospitals, and schools in 23 states.²³² It purported to be the first comprehensive study of living conditions for Native Americans in the U.S. since the 1850s, at which time a former Indian Agent and ethnologist, Henry R. Schoolcraft, had filed his own six-volume report with the U.S. Congress.

Overall, the scathing Meriam Report concluded that “any policy for Indians based on the notion that they can or should be kept separately isolated from other Americans is bound to fail.”²³³ More specifically, it also contained critical findings and offered wide-ranging recommendations for sweeping reforms in eight different areas: general policy; economic conditions; health; education; family and community life, including women’s activities; migration; the legal underpinning of the so-called “Indian problem;” and missionary activities on the reservations.

Regarding general economic conditions, the report fingered the individual allotment policy of the Dawes Act as the leading cause for widespread abject poverty. “In justice to the Indians, it should be said that many of them are living on lands from which a trained and experienced white man could scarcely wrest a reasonable living ... and little attempt has been made to formulate a broad, constructive program for the [BIA] service, on whole, extending over a long term of years, and having for its goal the general improvement of economic conditions.”²³⁴ Consequently, the report determined that “the income of the typical Indian family is low and the earned income extremely low.”²³⁵

²³² Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1984), 279.

²³³ *Ibid.*, 287.

²³⁴ Meriam, *The Problem of Indian Administration*, 5.

²³⁵ *Ibid.*, 4.

Furthermore, the report concluded that “the health of the Indians compared with that of the general population is bad.”²³⁶ First and foremost, the food supply was identified as the single greatest problem.²³⁷ An acute lack of knowledge of tribal languages among non-Native healthcare providers on reservations was very problematic.²³⁸ Overall, the report stated, “the hospitals, sanatoria, and sanatorium schools maintained by the [Indian Health] Service, despite a few exceptions, must generally be characterized as lacking in personnel, equipment, management, and design.”²³⁹

The assessment of education on the reservations was just as bleak and especially damning of the Indian boarding schools. “The survey staff finds itself,” according to the report, “obligated to say frankly and unequivocally that the provisions for the care of Indian children in boarding schools are grossly inadequate.”²⁴⁰ They decried poor diet, overcrowding, insufficient medical supplies, dependence upon student labor, and unacceptable standards for teachers, who relied too much upon a uniform curriculum.

The findings of the Meriam Report shamed the Hoover administration and Congress into approving some remedial measures such as additional funding to increase food and clothing supplies and to improve medical facilities on reservations.²⁴¹ They also prompted federal policymakers to think critically about whether to continue allotment and assimilation as their principal tool and goal. The upshot was that support for allotment foundered, but assimilation by other means was embraced. More specifically, whereas approximately 10,000 Indians were

²³⁶ Ibid., 3.

²³⁷ Ibid., 221.

²³⁸ Ibid., 3.

²³⁹ Ibid., 9.

²⁴⁰ Ibid., 11.

²⁴¹ Prucha, *The Great Father*, 312, 316.

assigned allotments totaling over 3 million acres between 1922 and 1926, a little over 2,800 Indians received allotments totaling less than 500,000 acres between 1929 and 1932.²⁴²

Soon after President Franklin D. Roosevelt was elected and inaugurated in 1933, the policy of allotment in Indian Country was jettisoned altogether. John Collier, a former social worker and outspoken advocate for change in Federal Indian policies, was installed as BIA Commissioner. He was instrumental in the drafting and passage of transformative legislation, such as the Indian Reorganization Act of 1934. Those developments marked the advent of the Indian Reorganization Era and implementation of the so-called “Indian New Deal.” Fundamentally, the new policy direction was designed to resuscitate tribal cultures and allow greater tribal self-governance on the reservations, albeit with a strong federal bias in favor of tribes who elected to reconstitute themselves with governing facsimiles of the U.S. Constitution and corresponding democratic structures and electoral voting. Equally important, it also offered new ways for tribes to begin to re-build greater control over their respective tribal lands and attain some measure of greater influence over their own economic livelihood.

At the same time, cultural assimilation into mainstream society remained the overarching federal objective, even though it was to be couched and advanced in the trappings of greater tribal sovereignty and with renewed respect for the distinct cultural traditions and lifeways of the diverse array of tribal nations. At bottom, the governance and economic development on the reservations was still to be recast in the framework and image of non-Native America.

Both the Northern and Southern Kickapoo on their respective Kansas and Oklahoma reservations seized the opening offered by the significant change in the direction of federal policy to reassert their tribal sovereignty through direct elections of tribal councils, the adoption

²⁴² Tom Holm, *The Great Confusion in Indian Affairs: Native Americans and Whites in the Progressive Era* (Austin: University of Texas Press, 2007), 187.

of constitutions and by-laws carefully modeled after the U.S. Constitution and national elections, and expanded communal holding of their trust lands (See Appendix 2).

The Northern Kickapoo

Since the 1930s, the Kickapoo Tribe in Brown County, Kansas, has been organized and continues to operate to this day as a federally recognized sovereign Indian nation in accordance with the Indian Reorganization Act of 1934. Their constitution and corresponding by-laws were adopted in February 1937. Their reservation of 6,441 acres is situated in the far northeastern corner of the state. According to tribal sources, the population is 783 people and there are 1,634 enrolled members.²⁴³

Article III, Section 1 of the Kickapoo Constitution and corresponding by-laws establish the procedures for the direct popular election of a governing body of seven elected enrolled members of the tribe for staggered two-year terms. This comprises the Kickapoo Tribal Council.

As a sovereign Indian nation and pursuant to Article V of the tribal constitution, the Kickapoo Tribal Council has unique and important enumerated powers to negotiate directly with the federal, state, and local governments. Functionally, it also wields powers akin to those of mainstream state legislatures and city councils and must fulfill many of the same duties. The tribal headquarters is located approximately six miles west of Horton, Kansas, on Highway 20. Regular meetings are held by the tribal council to discuss and vote on tribal matters that affect the community, reservation lands, natural resources, economic enterprises, legal concerns, and overall tribal government operations. In addition, the government includes a tribal court and administrative and law enforcement departments and altogether employs 133 people.²⁴⁴

²⁴³ Veronica E. Velarde Tiller, ed., *Tiller's Guide to Indian Country: Economic Profiles of American Indian Reservations* (Albuquerque: BowArrow Publishing Company, 2005), 553.

²⁴⁴ Ibid.

The small, checkerboarded reservation consists of relatively flat farmlands, rolling grassy hills, and is crisscrossed by several small rivers and streams. The economy is based substantially upon agriculture and livestock. A farming operation raises wheat, corn, soybeans, and milo. In 2005, 3,051 acres were devoted to crops, 1,936 acres to cattle grazing, and 221 acres to forested timberlands.²⁴⁵ In addition, the tribe owns and operates the Golden Eagle Casino, which opened in May 1996 and was expanded to 55,000 square feet in 1998. The facility includes slot machines, table games, a restaurant, and a 550-seat showroom. Revenue from its gaming operations is used for tribal government, education, health clinics and services, land purchase, bills and programs for tribal elders, youth organizations and programs, as well as general economic development. Other retail and service businesses include the Kickapoo Trading Post, which is home to a tribally-owned gas station and convenience store and the Kickapoo Truck Plaza, which provides services to truckers, such as showers, telecommunications, tv, laundry, a convenience store, and 20 gasoline and diesel pumps.²⁴⁶ Also, the Annual Kickapoo Powwow is held during the third weekend in July and recreational fishing and camping on the nearby Delaware River provides modest supplementary income for the tribe. According to the BIA, per capita income in 2001 was \$13,212.²⁴⁷

The Kickapoo have also gained relatively greater control over education and healthcare policies. Students attend the Kickapoo Nation Schools, wherein their tribal language is taught as part of the regular curriculum. They have access to basic healthcare such as checkups, blood testing, prescription drugs, diabetic treatment and counseling, through the Kickapoo Clinic and the Holton Health Center, an intertribal facility leased to the U.S. Public Health Service.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

²⁴⁷ Ibid.

Specialized medical services are accessible through local hospitals and other facilities off the reservation.²⁴⁸

Longstanding environmental concerns are perhaps the most pressing challenges confronting the Kickapoo living on the reservation in recent decades. They continue to grapple with a limited water supply and water quality issues attributable to agricultural runoff, riverbank erosion along the Delaware River, wetland drainage, and water use restrictions during frequent droughts.²⁴⁹

The Southern Kickapoo

The federally recognized tribe is organized under the Oklahoma Indian Welfare Act of 1936 and their federal charter was adopted in 1938. Amendments to the tribal constitution and by-laws were ratified in 1977. Their reservation of 6,821 acres spreads across Pottawatomie, Oklahoma, and Lincoln counties in central Oklahoma. According to the 2000 census, the population living on the reservation was 18,544. Tribal enrollment was 2,505 in 2001 according to BIA data.²⁵⁰ Tribal headquarters are in McCloud, Oklahoma, which is located approximately 10 miles east of metropolitan Oklahoma City.

The Kickapoo General Council is the tribe's supreme governing body, which meets at least once a year and must have a quorum of 25 to conduct business. A business committee with three-year staggered terms, consisting of a chairman, vice-chairman, treasurer, plus one other member, serves as the tribe's elected governing body.²⁵¹ As of 2005, 125 people were employed by the tribal government, including staff for community, child care, and fitness centers.²⁵²

²⁴⁸ Ibid., 554.

²⁴⁹ Ibid.

²⁵⁰ Ibid., 850.

²⁵¹ Ibid.

²⁵² Ibid.

The tribal economy primarily depends upon gaming and retail, in which at least 1,200 tribal members are employed. The Kickapoo Casino in McLoud features three table games and 400 video gaming machines. A second casino with at least 20 additional video gaming machines operates in conjunction with the Kickapoo Conoco gas station and convenience store in nearby Harrah.²⁵³

Tribal students attend public schools in the three county-tribal areas. With regard to healthcare, an array of ambulatory health services is accessible to tribal members through the Oklahoma City Area Indian Health Service via its Shawnee Health Center in Shawnee, which is located approximately 10 miles southeast of McLoud. Whenever specialized medical services are needed, patients are referred to the Carl Albert Indian Hospital in Ada or to one of multiple hospitals in Oklahoma City.²⁵⁴

In cultural terms, tribal members adhere comparatively to traditional customs and practices in religion, arts and crafts, and ceremonies.

²⁵³ Ibid.

²⁵⁴ Ibid., 851.

CHAPTER 19

NODDING THROUGH HISTORY

Just a few years after enactment of the Indian Reorganization Act of 1934—the so-called Indian New Deal—rumblings started in the U.S. Congress to settle the “Indian problem” once and for all. There was a congressional desire to “unburden itself forever of all the sins of commission and omission committed in the past.”²⁵⁵ The growing bipartisan groundswell of political support culminated in the enactment of the Indian Claims Commission (ICC) Act of 1946. That legislation was passed and signed into law by President Harry S. Truman on the cusp of the Republican takeover on Capitol Hill. The statute established a three-member, quasi-judicial commission of presidential appointees who were to finally give aggrieved Indian tribes ostensibly their proverbial day in court by affording them the right to file claims for financial compensation from the U.S. government for redress of longstanding treaty violations, fraudulent federal practices, and dispossession of ancestral tribal lands. Its jurisdiction was to include moral claims based on “unconscionable consideration” and “fair and honorable dealings” as well as those over which the Court of Claims then had jurisdiction.²⁵⁶ Not coincidentally, the same law disallowed any land returns and exclusively authorized what was deemed to be suitable financial compensation after adjudication and final validation of claims by a majority of the commissioners.

Furthermore, the amounts of financial compensation awarded to each tribe were to be offset and reduced by any prior financial awards and/or in-kind gratuities provided by federal authorities.

²⁵⁵ Wilcomb E. Washburn, *Red Man's Land, White Man's Law* (New York: Scribner, 1971) 83.

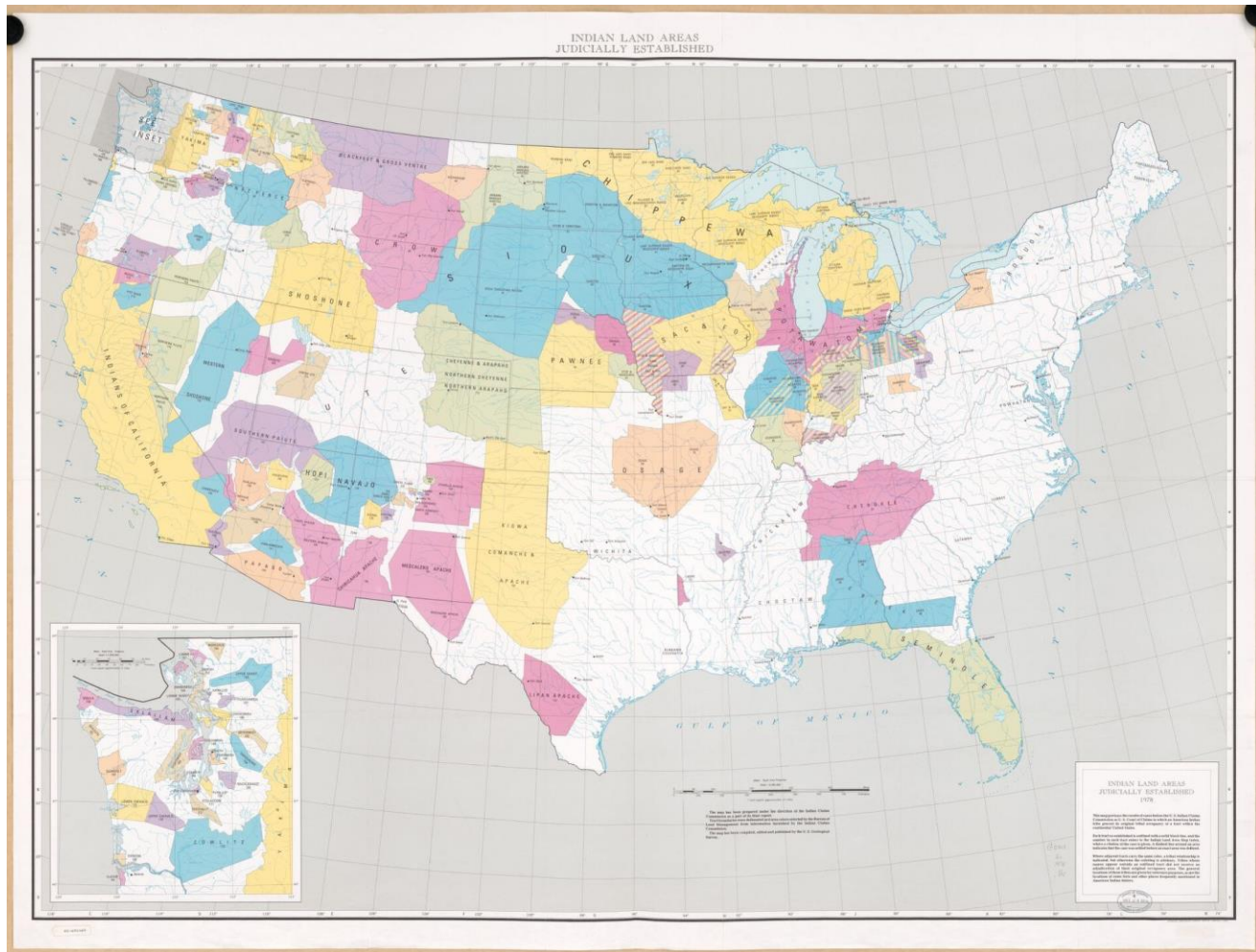
²⁵⁶ [H.R. 4497], [Public Law 726] 60 Stat. 1049.

Cumulatively as of 1978, the ICC had dismissed 204 dockets and awarded financial compensation on 274 claims during its thirty years of existence, totaling \$818,172,606.64 paid out to Indian tribes across the U.S. in exchange for more than 2 billion acres of land and in redress of fraudulent dealings and treaty violations.²⁵⁷

In particular, the Kickapoo tribes filed multiple claims with the ICC, but once again received a raw deal. The compensation received fell far short of what any impartial observer today would consider commensurate redress for egregious mistreatment and profound historical injustices at the hands of the U.S. government and for the wide-ranging land losses to Euro-American colonizers and settlers.

Their first claim was formally filed and consolidated on January 22, 1954. Additional claims were filed in 1957, 1962, 1966, 1968, 1969, and 1970. Final settlement of all the claims was not reached until January 18, 1979. In total, the Kickapoo Nation received \$13,612,459 from the U.S. government in compensation for the loss of hundreds of thousands of acres of resource-rich, ancestral lands spread across Illinois, Missouri, Kansas, Oklahoma, and other states. A closer examination of the handling of those claims is quite revealing.

²⁵⁷ H.D. Rosenthal, *Their Day in Court: A History of the Indian Claims Commission* (New York: Garland, 1990), Appendix B, 267.



Indian land areas judicially established by the Indian Claims Commission (1946-1978). Source: <https://pubs.er.usgs.gov/publication/70114965>.

ICC First Claim

The Kickapoo's first claim pertained to Royce Area 11 on the Royce Map of Indian Land Cessions. This area encompassed approximately two-thirds of Ohio and a small contiguous portion of southeastern Indiana.²⁵⁸

²⁵⁸ U.S. Indian Claims Commission, August 13, 1946–September 30, 1978; Final Report, 1979, 31 Indian Claim Commission 89, 92.

Along with at least eleven other tribes, the Kickapoo Tribe of Oklahoma, the Kickapoo Tribe of Kansas, et. al. petitioned for redress and the ICC ordered the numerous petitions consolidated on January 22, 1954. The filing centered upon title claims that arose in relation to the Treaty of Greenville of 1795 (7 Stat. 49) and, where the Six Nations, or Iroquois Confederacy, were concerned, the Fort Stanwix Treaty of 1794 (7 Stat. 15), the Fort Harmar Treaty of 1789 (7 Stat. 33), and the Canandaigua Treaty of 1794 (7 Stat. 44).

The proceeding presented several issues of law and matters of fact for ICC adjudication. Underlying the legal issues presented was the complicated Euro-American settlement history of 18th century Ohio and the remainder of the Northwest Territory, out of which a labyrinth of competing, sometimes overlapping tribal claims and U.S. government counterclaims arose. The ICC's factual findings chronicled the unique state of affairs which existed within Royce Area 11 from the advent of European involvement in Ohio in the late 17th century through the triumph and consolidation of American control during the last decade of the 18th century. According to the commissioners, "During this entire period of 100 years, the Indians may properly be termed to have been unwitting pawns in a battle of vast imperialistic proportion. Out of these events, it is necessary to separate and evaluate the roles of the various Indian tribes in the history of the areas at issue here and to determine the rights, if any, of these tribes."²⁵⁹

The land areas linked to the various tribes in the 1740s set the geographical pattern for subsequent Indian use and occupancy within Royce Area 11 for the remainder of the 18th century. Records of an intertribal council of Ohio Indians held at Lower Shawnee Town in Ohio agreed among themselves "that the lands west of the Great Miami River were the property of a confederacy comprised of Miamis, Piankeshaws, Weas, Kickapoos, and Mascoutens."²⁶⁰ While

²⁵⁹ ICC Docket #338, August 9, 1973, 94.

²⁶⁰ Ibid., 103.

the ICC concluded that, at the time of the 1795 Greenville Treaty, the Indians did not possess recognized title to the lands west of the Ohio River, they did agree to consider whether the assorted tribes possessed aboriginal title. Several of the plaintiff tribes argued that various tribes who inhabited Ohio during the 18th century comprised a confederated land-owning entity.²⁶¹

Nevertheless, noting that all of the experts who testified for the various parties in the proceeding agreed that no particular tribe ever exclusively used and occupied any large portion of Royce Area 11, the ICC held “that no part of these lands was owned by the tribes who were signatories to the Greenville Treaty as a confederated land-owning entity.”

At the same time, the commissioners concluded that there were smaller enclaves ceded to the United States under the 1795 Treaty, wherein use and occupancy was easily observable and definable and specific tribes did hold aboriginal title to the land. Regarding the Kickapoo, the ICC concluded: “Chicago [Royce Area 24, Illinois] and that portion of the fourth described passage running from Chicago to the Illinois River, we have found to have been aboriginally owned by the Potawatomi Tribe in 1795; the same is true of those portions of the areas ceded at the 1795 Greenville Treaty located on the north and west banks of the Illinois River. The areas on the south and east banks of the Illinois River ceded at Greenville we have found in 1795 to have been aboriginally owned by the Kickapoo Tribe.”²⁶² Furthermore, the ICC finally concluded: “As of 1795, the Kickapoo Tribe, represented in these proceedings by the Kickapoo Tribe of Oklahoma, the Kickapoo Tribe of Kansas, et. al., plaintiffs in Docket 338, possessed aboriginal title to those portions of the areas described in the fifteenth and sixteenth clauses of

²⁶¹ Ibid., 114

²⁶² Ibid., 129.

the second paragraph of Article III of the 1795 Treaty of Greenville (the mouth of the Illinois River and the ‘old Piorias fort and village’) located south and east of the Illinois River.”²⁶³

Incredibly, it took until January 18, 1979, for the U.S. Court of Claims, which became the successor to the ICC after the commission went out of business in 1978, to award \$108,734.40 in compensation to the Kickapoo plaintiffs and for Congress to appropriate the requisite funds.²⁶⁴

Second Claim

On June 4, 1957, the Kickapoo Tribe of Kansas, the Kickapoo Tribe of Oklahoma, and other members of the Kickapoo Nation together were one of five tribal nations who received initial findings and an opinion along with an interlocutory order from the ICC, pursuant to their first petition and consolidated claim (Docket # 317) filed against the U.S. government (defendant).²⁶⁵

At issue was the compensation for tribal land cessions paid by the federal government under the terms of the Grouseland Treaty of 1805 and the Fort Wayne Treaty of 1809. The pertinent ceded lands are shown in Royce Area Tracts 56, 71 and 72.²⁶⁶ Because the Kickapoo tribes claimed no rights specific to these three tracts, their petition was dismissed from the petition consolidation ordered on April 21, 1953 and was amended on March 20, 1956. Instead, they were mentioned in Article 9 of the Fort Wayne Treaty of September 30, 1809, concerning lands in Royce Area Tracts 73 and 74, which was to be considered separately.²⁶⁷

Subsequently, on March 2, 1962, the ICC proceeded to take up separate consideration of the claim filed by the Kickapoo tribes in conjunction with the Peoria Tribe of Indians of

²⁶³ Ibid., 138.

²⁶⁴ Senate Executive Communication, 96th Congress (1979-1980).

²⁶⁵ Final Report, “Alphabetical Index of Indian Claims Commission Cases through September 1, 1978–Continued,” 53.

²⁶⁶ 18th Annual Report of the Bureau of American Ethnology for 1896-1897.

²⁶⁷ ICC Docket 317, June 4, 1957, 201 and 217.

Oklahoma on behalf of the Wea Nation, at one time a band of the Miami tribe. The commissioners made several findings of fact in what proved to be a very complicated claim. First, they acknowledged that the movement of the Vermilion and Prairie bands of the Kickapoo Tribe of Nations from Illinois and Indiana to the Kansas and Oklahoma reservations was traceable through the treaties between the Kickapoo Nation and the U.S. Therefore, at issue was whether the Kickapoo and Wea petitioners, or their predecessors, possibly had additional “compensable interests” in specific land tracts such as at Royce Areas 73 and 74 located in Illinois and Indiana, just west of the Wabash River, at or about the time those lands were ceded to the U.S.²⁶⁸

In fact, the Kickapoo tribe and the Wea tribe were parties to the Treaty of Greeneville on August 3, 1795 (7 Stat. 49), and, as such, were among the signatory Indian tribes in which the ICC had previously recognized their interests in the lands between the Mississippi River and the general boundary line agreed to by that treaty, but did not define the separate lands or interests of the different tribes. On behalf of the U.S. government, Governor William Henry Harrison concluded a treaty at Vincennes, Indiana, with the “sachems and war chiefs of the Kickapoo tribe.” Said treaty (7 Stat. 117) was duly ratified and confirmed by the President with the advice and consent of the Senate and proclaimed on March 8, 1810. The treaty provided in Article II that “the ninth Article of the treaty concluded at Fort Wayne on September 30, 1809, and the cession it contains is hereby agreed to by the Kickapoos and a permanent additional annuity of four hundred dollars, and good to the amount of eight hundred dollars, now delivered, is to be considered as a full compensation for the full cession.”²⁶⁹

²⁶⁸ Proceedings before the Indian Claims Commission, vol. 10, 273.

²⁶⁹ 1809 Treaty of Fort Wayne also known as the Ten O’clock Line Treaty.

Under the terms of the same treaty, the Kickapoo Nation also agreed to sell, relinquish, and release to the defendant U.S. government all right, title, and interest in the territory described in Article 9 of the Treaty of September 30, 1809 (7 Stat. 113), with certain other Indian tribes, as follows: “The lands on the northwest side of the Wabash, from the Vincennes tract to a northwardly extension of the line running from the mouth of the aforesaid Raccoon Creek, and fifteen miles in width from the Wabash.”²⁷⁰ Furthermore, under the terms of the same treaty, the Kickapoo Nation further agreed to cede to the defendant U.S. government, the following: “All of the tract of land which lies between the tract above ceded, the Wabash, the Vermilion River, and a line to be drawn from the north corner of the said ceded tract, so as to strike the Vermilion River at the distance of twenty miles in a direct line from its mouth.” This area was Royce Area 74.

It was also determined that Article 4 of the Treaty of Grouseland, dated August 21, 1805 (7 Stat. 90), provided that:

As the tribes which are now called the Miamis, Eel River, and Weas were formerly and still considered themselves as one nation, and as they have determined that neither of these tribes shall dispose of any part of the country which they hold in common; in order to quiet their minds on that head, the United States does hereby engage to consider them as joint owners of all the country on the Wabash and its waters, above the Vincennes tract, and which has not been ceded to the United States, by this or any former treaty; and they do farther engage that they will not purchase any part of the said country without the consent of each of the said tribes. Provided always, that nothing in this section contained, shall in any manner weaken or destroy any claim which the Kickapoos, who are not represented at this treaty, may have to the country they now occupy on the Vermilion River.

It is important to note that for many years prior to that treaty, the Kickapoo had a village at the confluence of the Vermilion and Wabash rivers.

²⁷⁰ Royce, “18th Annual Report of the Bureau of American Ethnology, Part II,” Indiana Map 1, Area No. 73.

The tribes which were party to the Grouseland Treaty, with the exception of the Wea, agreed to cede Royce Area 73 to the U.S. by the treaty made at Fort Wayne on September 30, 1809, with the special condition that “this article is to have no effect unless the Kickapoos will agree to it” (Pet. Ex. 32, Art.9). Pursuant to this cession, permanent annuities of \$400 payable to the Miami and \$100 each to the Wea and Eel River Tribes were made. (Pet. Ex. 33). The Wea Tribe gave its consent to the Fort Wayne Treaty by a convention entered into October 26, 1809 (Pet. Ex. 45).

With respect to Royce Area 73, it was determined that this convention provided for the Wea a further permanent annuity of \$100 “as soon as the Kickapoo can be brought to give their consent to the ninth article of said [Fort Wayne] treaty.” The Fort Wayne Treaty was agreed to by the Kickapoos in exchange for a permanent annuity of \$400 and goods valued at \$800 (Pet. Ex. 37). By the same treaty, the Kickapoo ceded to the U.S. Royce Area 74, subject to the following conditions “For this cession, a further annuity of \$100, and the sum of \$700 in goods now delivered, is considered as a full compensation. But if the Miamis should not be willing to sanction the latter cession, and the U.S. should not think proper to take possession of the land without their consent, they shall be released from the obligation to pay the additional annuity of \$100.” (Pet. Ex. 37)

The consent of the Wea and Miami, including the Eel River Miami, to the Kickapoo cession was obtained by two treaties, the first dated October 2, 1818 (7 Stat. 186), and the second dated October 6, 1818 (7 Stat. 189). By the Treaty of Greenville on August 3, 1795, the U.S. recognized title in the Kickapoo Tribe and the Wea Tribe in and to such lands within the general boundary line agreed to by the terms of said treaty used and occupied by said tribes without specifically identifying the lands of each tribe. Said Indian title in the Kickapoo and Wea tribes

was further acknowledged or confirmed by the Treaty of Grouseland on August 21, 1805, without identifying the separate areas owned by each of the said tribes again.

By the treaties of October 26, 1809, December 8, 1809, and October 2, 1818, the Kickapoo Tribe and the Wea ceded to the U.S. Royce Areas 73 and 74, but the treaties of cession do not identify the specific lands within the areas separately held by each of said tribes under recognized title. The evidence of record does not as of March 2, 1962 permit a determination of respective interests of the Kickapoo and Wea tribes which must be shown by their respective use and occupancy.

Proceeding from the aforementioned facts and in summation, the ICC delivered the following opinion. First, the question posed was whether the petitioners (Kickapoo and Wea) have a right to the lands in question, by title recognized by the defendant (U.S.) through duly ratified treaties. By precedent (*Crow Tribe v. U.S.* 1954) the ICC stated that Indian tribes held land in two ways:

1. “Aboriginal possession, which is the source of Indian title, is based upon exclusive use and occupancy. This interest is generally known as ‘original Indian title’ or ‘unrecognized Indian title.’ This type of Indian rights in land is not involved here, for, as we have said above, we are only to decide whether the petitioners ceded by said treaties their recognized title or rights. We mention original Indian title primarily to distinguish it from the kind of tribal interest the claimants here maintain they had when they ceded their lands to the defendant.
2. “The other way in which Indians held land was by ‘recognized title’, that is, where the Indians’ right to permanently occupy and use land has been confirmed or recognized by Congressional action. This kind of tribal right is variously

referred to in court decisions as ‘treaty’ or ‘reservation’ title, or ‘recognized’ title.”

To create such an interest in Indian tribes, direct Congressional action is necessary by ratified treaties and agreements, or by specific statutory enactment. In *Hynes v. Grimes*, 1947, the U.S. Supreme Court said, “Since Congress, under the Constitution, Sec. 3 of Art. 4, has power to dispose of the lands of the United States, it may convey to or recognize such right in the Indians, even a title equal to fee simple, as in its judgment is just.” In *Northwestern Band of Shoshone Indians v. U.S.*, 1945., the U.S. Supreme Court ruled that the 1868 treaty upon which the Northwestern Band of Shoshone based their claim was nothing more than a “nonbinding treaty of friendship.”

And in *Sioux v. U.S.*, 1942, the U.S. Supreme Court held that the disposal of public lands rests “exclusively in Congress.” Congressional recognition may be by direct legislative action or by ratifying a treaty or agreement with an Indian tribe wherein such recognition is provided.

Furthermore, In *Tee-Hit-Ton Indians v. U.S.*, 348 U.S. 272, 278, the Court held: “There is no particular form for congressional recognition of Indian right of permanent occupancy. It may be established in a variety of ways, but there must be the definite intention by Congressional action or authority to accord legal rights, not merely permissive occupation.”²⁷¹

The petitioners herein did not rely upon proof of “Indian Title” to sustain their position, but upon the proposition that by the Treaty of Greenville (7 Stat. 49), between twelve Indian tribes, including the petitioners, the defendant recognized the title of these petitioners in the lands ceded in 1809 (tracts 73 and 74) which were within the boundaries of the lands relinquished (Art. IV) by the U.S. in the Greenville Treaty.

Regarding this relinquishment by the U.S. government, the treaty reads:

²⁷¹ ICC, Docket #317 and 314-C Consolidated, 282-283.

In consideration of the peace now established and of the cessions and relinquishments of lands made in the preceding article by the said tribes of Indians, and to manifest the liberality of the United States, as the great means of rendering this peace strong and perpetual; the United States relinquishes their claims to all other Indian lands northward of the river Ohio, eastward of the Mississippi, and westward and southward of the Great Lakes and the waters uniting them, according to the boundary line agreed on by the United States and the king of Great Britain, in the treaty of peace made between them in the year 1783.²⁷²

This treaty also contained a provision against sale of any said lands by the Indian tribes to anyone other than the U.S. By precedent, the ICC had determined in a prior Miami tribal claim that:

When the defendant (i.e. U.S.) relinquished its claims to the tribal lands in the Northwest Territory and solemnly agreed that the tribes having a right thereto might enjoy those lands as they pleased without molestation from the U.S., it was granting each of the twelve signatory tribes the right of exclusive permanent occupancy of the lands each respectively possessed until they were disposed to sell them to the U.S. The tribes were thus each granted a right they did not enjoy before Greenville, but one plainly within the judicial concept of “recognized” title.²⁷³

The ICC also found that the failure of the treaty to specify the lands of each respective tribe did not militate against the U.S. government’s recognition of the right of each tribe to use and occupy its lands until it was disposed to sell them to the U.S. Citing presidential negotiating instructions to General Anthony Wayne, Wayne’s own statements to the Indians, and the statements of Indian leaders at the Greenville Treaty, the ICC concluded insofar as tribal lands were concerned the U.S. government was dealing with each tribe independently of the others.

The official opinion reads:

In other words, it was understood by the U.S. government’s representatives and the Indians that each tribe had separate lands; that there was no community of interest in the lands of the Northwest Territory. Accordingly, the recognition accorded by the Greenville Treaty was that of each tribe. To be sure, the separate tribal lands had to be

²⁷² Ibid., 283.

²⁷³ Ibid., 284.

identified whenever identification became necessary and that could be done between the tribes and the U.S.²⁷⁴

Subsequently, the Treaty of September 30, 1809, agreed to by the Kickapoo Tribe on December 9, 1809, and by the Wea Tribe on October 26, 1809, identified Royce Areas 73 and 74 in which possessory rights of the Kickapoo and Wea tribes were confirmed. In summary, the ICC concluded that “the Kickapoo and Wea tribes had recognized title to Royce Areas 73 and 74 which each tribe possessed by virtue of the right of exclusive permanent occupancy granted each tribe by the Greenville Treaty of 1795.”²⁷⁵

Next, on December 9, 1969, the ICC turned its attention to determining what would have been fair market value of these lands, as of 1810, and the liability of the U.S. government to make compensatory payments to the Kickapoo and Wea. The ICC stipulated at the outset of this phase of the proceedings that the amount paid by the U.S. government for these lands was nominal. More specifically, the Kickapoo tribe, for example, had been paid less than 3 cents per acre, an amount clearly unconscionable on its face, a conclusion not disputed by the defendant (U.S. government).²⁷⁶ But a fundamental challenge was posed by the fact that there was no market for these lands in 1810 and, therefore, no evidence of market value available to the ICC in the conventional meaning of that term. Accordingly, the ICC had to rely upon other sources in their best efforts to determine some measure of evaluation, reaching as far back as 160 years.

The tribal claimants called expert witnesses, as of 1969, who spoke to various types of lands in the pertinent land tracts. In turn, they relied upon original surveyors’ notes and corresponding modern soil studies and took into account immigration into the areas, population growth, transportation facilities, emerging markets, the presence of underground minerals on the

²⁷⁴ Ibid., 284-285.

²⁷⁵ Ibid., 285.

²⁷⁶ ICC Docket #317 (and 314-C) December 5, 1969, 188-189.

subject lands, comparative sales, public land policy, and the economic history of early 19th century in what became the states of Indiana and Illinois. They estimated the fair market value of Royce Area 73 and 74 at \$2.15-\$2.25 per acre. To cite one example from the surveyor's notes, Mr. D. Buck in 1817 testified, "I have seen a great deal of excellent land; the prairies on the Wabash in the vicinity of Fort Harrison exceed for richness of soil and beauty of situation I ever beheld. The prairies are from one to five miles wide, bordering on the river, and from one to twelve in length; the streams which run into the Wabash divide one prairie from another; on these streams are strips of woods from half a mile to a mile wide, the timber of which is excellent; the soil of the prairies in a black vegetable mould, intermixed with fine sand, and sometime gravel. In choosing a situation for a farm, it is important to locate a tract, as to have half prairie and half wood land; by which means you will have a plantation cleared to your hand."²⁷⁷ As the defendant in the claim, the U.S. government's expert witness placed different emphasis on pretty much the same sources, estimating the same lands to be worth 40 cents per acre.

The ICC then sought to reconcile the differing estimates by "weighing the evidence and the opinions by its standards of relevance and materiality, attempting to assess the effect of the various items of historical information presented to it."²⁷⁸ Since opposing experts typically resorted to differing selection of facts, while the ICC attempted to assess the entire available historical record, only rarely did the ICC's ultimate opinion coincide with that of any one expert witness.

Ultimately, the ICC settled upon a valuation between the competing experts witnesses for nearly 3 million acres of land, determining the fair market value for Royce Area 73 to be \$1.40

²⁷⁷ Ibid., 192.

²⁷⁸ Ibid., 151.

per acre (\$567,000 in total), as of March 1810, and that of Royce Area 74 to be \$1.50 per acre (\$136,000 in total), as of January 7, 1819.²⁷⁹ The payment made to-date by the U.S. government for Royce Areas 73 and 74 was deemed “unconscionable.” On February 11, 1970, the ICC found that the Kickapoo Tribe was entitled to receive an additional \$340,250 in payment and approved this final award.²⁸⁰

Third Claim

The Kickapoo’s third and longest-running claim pertains to much of east central Illinois, including Livingston County and the Goold farm and spilling over into west central Indiana. The area encompassed by the Treaty of Greenville of 1795 is designated on Map Appendix 1, at page infra, by the symbols A, A’, B, and D.²⁸¹ It was concluded with the view of quieting all claims that any tribe of the Illinois Confederacy might make to the territory described, but that didn’t happen until February 3, 1980.

On March 11, 1958, the ICC consolidated consideration of this claim that was filed by the Kickapoo Tribes of Kansas, Oklahoma, et al. along with six other tribal nations alleging “unconscionable consideration” received from the U.S. government for cessions of land in Illinois and Indiana. The Kickapoo claimed to have held “recognized title” and “Indian title” to the pertinent lands in question, primarily under provisions of the Greenville Treaty of 1795, the Grouseland Treaty of 1805, and the land cession treaties the Kickapoo entered into on July 30, 1819, and on August 30, 1819. When these multiple tribes filed their original claim, they also alleged “fraud, duress, and in some cases, bribery in these dealings with the U.S. government.” But during the proceedings, they did not submit evidence in support of these allegations and did

²⁷⁹ Ibid, 194.

²⁸⁰ Ibid., 443.

²⁸¹ ICC Docket #315, April 4, 1973, 79-80.

not propose any pertinent findings of fact. Consequently, the ICC did not make any findings in that regard.

On April 4, 1973, the commissioners issued their factual findings. When the Treaty of Greenville of 1795 was being negotiated, the Peoria and Kaskaskia were two of the once numerous and populous tribes who belonged to the Illinois Confederacy. They along with other tribes, including the Kickapoo, Shawnee, Miami, and Wea, had used and occupied portions of these lands during the 17th century and the first half of the 18th century. However, between 1680 and 1760, the Illinois Indians suffered continual attacks by other tribes from all directions, starting with the Iroquois Confederacy. They also succumbed in large numbers because of their exposure to infectious diseases for which they had no immunity. Their population was decimated and, by the end of the 18th century, there were no more than 100 to 200 tribal members left, and they were concentrated on very small tracts of land in Kaskaskia, near St. Louis. They had been supplanted in the land east of the Illinois River largely by the Kickapoo and Potawatomi tribes.

The Treaty of Greenville of 1795 was negotiated and executed in furtherance of the U.S. government policy expressed in Article III of the Northwest Ordinance, which provided in part: “The utmost good faith shall always be observed towards the Indians, their land and property, rights, and liberty. They never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.”²⁸² The signature caption of the Treaty of Greenville specifies “Kickapoos and Kaskaskias” followed by three signatures, the tribal identity of which is not otherwise disclosed. In contrast, the signatures immediately preceding these on the treaty are captioned “Weas for

²⁸² Ibid., 92-93.

themselves and the Piankeshaws.” indicating that the Weas signed on behalf of the Piankeshaws as well as for themselves.²⁸³

Article IV of the Treaty of Grouseland of 1805 stipulates: “That nothing in this section contained, shall in any manner weaken or destroy any claim which the Kickapoos, who are not represented at this treaty, may have to the country they now occupy on the Vermilion river.”²⁸⁴

The land in central Illinois, including McLean and Livingston counties, was ceded by the Kickapoo to the U.S. government in accordance with the terms of the Treaty of July 30, 1819 (7 Stat., 200) and described as:

Beginning on the Wabash river, at the upper point of their cession, made by the second article of their treaty at Vincennes, on the 9th December, 1809; running thence, northwestwardly, to the dividing line between the states of Illinois and Indiana; thence, along said line to the Kankakee River; thence, with said river to the Illinois River; thence, down the latter, to its mouth; thence, with a direct line to the northwest corner of the Vincennes tract, as recognized in the treaty with the Piankeshaw tribe of Indians at Vincennes, on the 30th December, 1805; and thence, with the western and northern boundaries of the cessions heretofore made by the said Kickapoo tribe of Indians, to the beginning. Of which last described tract of land, the said Kickapoo tribe claim a large portion, by descent from their ancestors, and the balance by conquest from the Illinois nation, and uninterrupted possession for more than half a century.”²⁸⁵

The ICC rejected the attorney arguments for the U.S. government contending that the Kickapoo Nation was comprised of two separate and distinct political entities: the Prairie Kickapoo and the Vermilion Kickapoo. They asserted that only the latter participated in the negotiation of the Greenville Treaty of 1795 and in the Kickapoo Treaty of August 30, 1819 (7 Stat. 202), whereas only the former participated in the Kickapoo Treaty of July 30, 1819 (7 Stat. 200). In addition, they argued that neither the Prairie Kickapoo, nor the Vermilion Kickapoo had Indian title to any portion of Royce Area 110, and that since the Prairie Kickapoo did not

²⁸³ ICC Docket #313, April 4, 1973, 94.

²⁸⁴ ICC Docket #314-A, April 4, 1973, 100.

²⁸⁵ ICC Docket #315, April 4, 1973, 106-107.

participate in the Treaty of Greenville, they did not have recognized title to the portion of Royce Area 110 which they ceded under the Kickapoo Treaty of July 30, 1819.²⁸⁶ The commissioners also found that some aspects of the identified Royce areas were mapped arbitrarily, resulting in significant discrepancies.

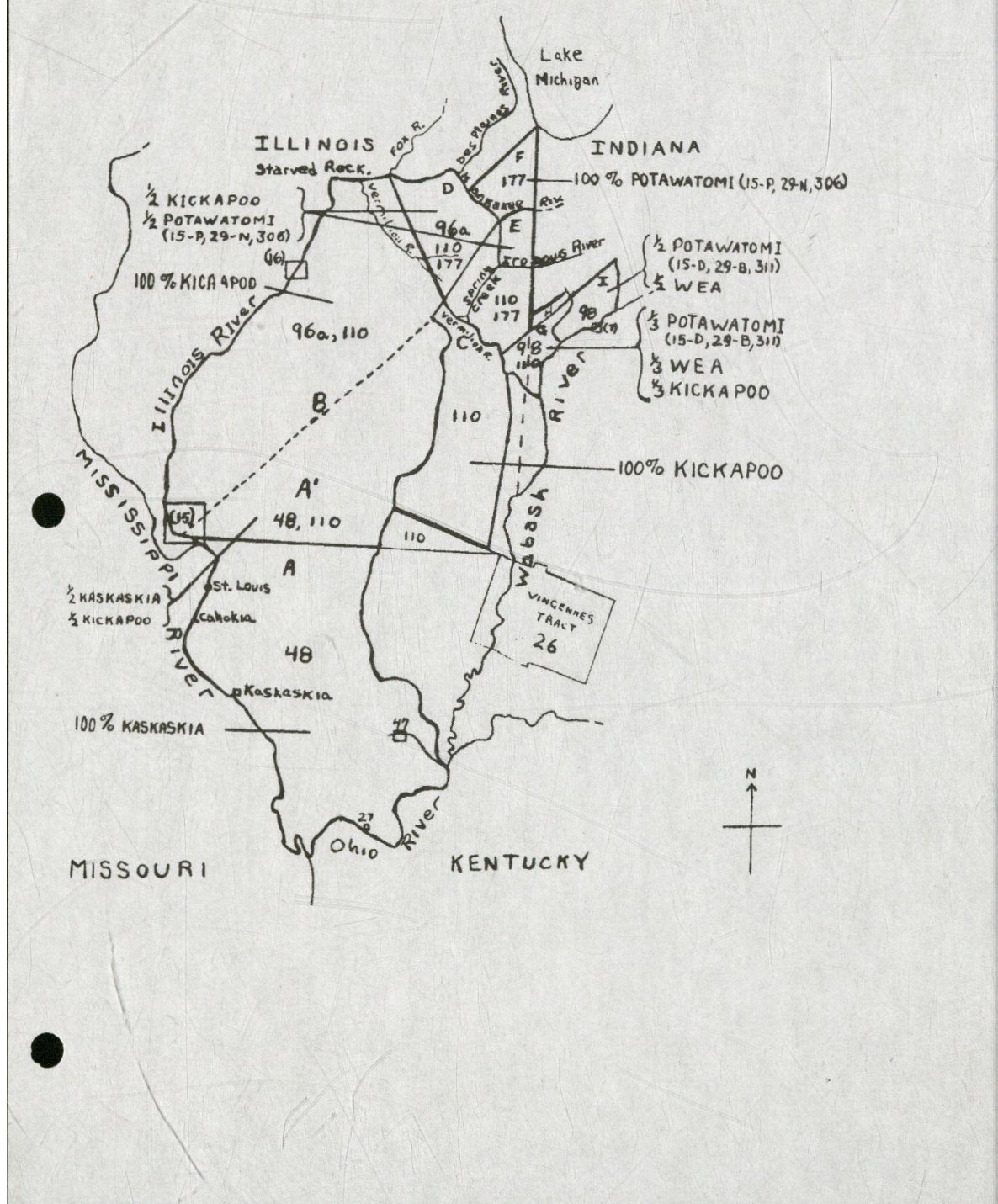
Regarding Kickapoo title, the ICC determined: (1) exclusive title to the portion of Royce Area 110 designated as Tracts B and C on *Map Appendix I*; (2) a recognized, undivided title to the portion of Royce Area designated as tracts A', D, and E on Map Appendix I, noting that the other recognized undivided one-half in tract A' was ceded by the Kaskaskia under the Treaty of August 13, 1803, and that the other recognized, undivided one-half interest in tracts D and E were ceded by the Potawatomi under the Treaty of October 20, 1832 (7 Stat.378); (3) a recognized, undivided one-third interest in the portion of Royce Area 110 designated as tract G on Map Appendix I, noting the remaining interests in tract G were jointly held by the Potawatomi, who ceded their respective interest under the Potawatomi Treaty of October 2, 1818 (7 Stat. 185), and by the Wea, who ceded their respective interest under the Wea Treaty of October 2, 1818 (7 Stat., 186); and (4) a recognized, undivided one-third interest in the portion of Royce Area 110 designated as tract H on *Map Appendix II*, noting that the remaining one-third interests belonged to the Wea and Potawatomi tribes, who ceded their respective interests pursuant to the aforementioned treaties of 1818 and 1832. Hence, the Kickapoo interests thus ceded were subject to prior cessions in accordance with Article III of the Treaty of Greenville of 1795. They also declared that the Kickapoo Treaty of July 30, 1819, became effective on the date it was signed and concluded by the parties and that the Kickapoo Treaty of August 30, 1819 and corresponding cession became effective on May 10, 1820.²⁸⁷

²⁸⁶ Ibid., 68.

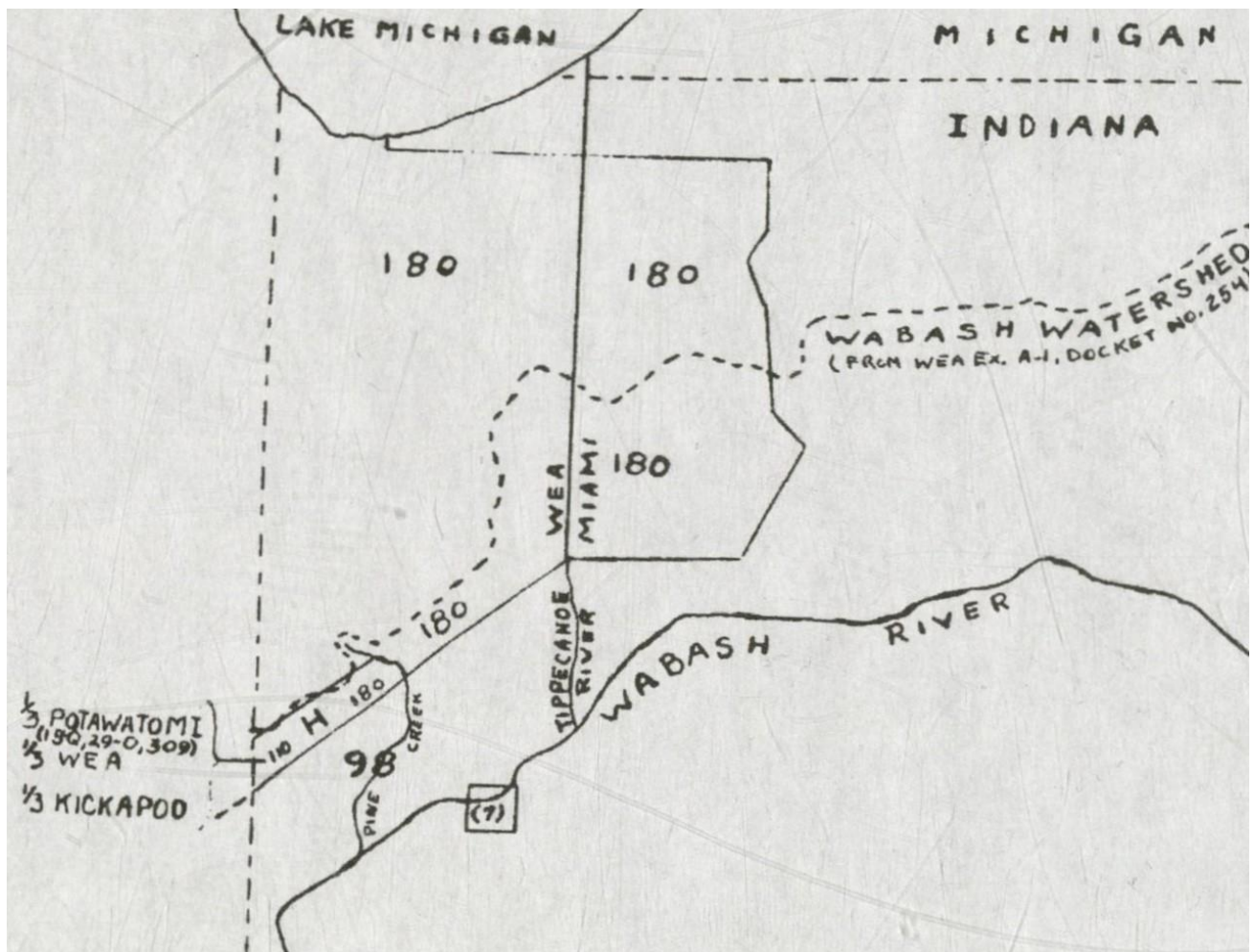
²⁸⁷ Ibid., 109-110.

30 Ind. Cl. Comm. 42

MAP APPENDIX I



Map to accompany Claim #3, affirming Kickapoo land claims in present-day eastcentral Illinois.
 Source: Official Report and Findings of the Indian Claims Commission (Docket #315, p. 79).



Supplementary ICC map affirming Kickapoo land claims in present-day northwestern Indiana. Source: Official Report and Findings of the Indian Claims Commission (Docket #315, p. 80).

In their final opinion, the ICC concluded that the U.S. government negotiated with the Kickapoo Indians as a consolidated tribe or nation, not as separate Vermilion and Prairie Bands of Kickapoo. Furthermore, they concluded that “the Kickapoo Tribe gained a recognized title interest under the 1795 Treaty of Greenville to Royce Area 110 as established by the subsequent treaties of cession.”²⁸⁸ Recognition of the Kickapoo interest in the portion of Royce Area 110 which they occupied on the Vermilion River was confirmed by the Treaty of Grouseland on

²⁸⁸ 30 Indian Claim Commission 42, 70.

August 21, 1805. The latter treaty was executed between the United States and the “Delawares, Pottawatomies, Miames, Eel River, and Weas [sic].” Article IV thereof, which provides that nothing therein, “shall in any manner weaken or destroy any claim which the Kickapoos may have to the country they now occupy on the Vermilion River,” has been construed by the Court of Claims as confirming recognized title in the Kickapoo to said territory.²⁸⁹

Also, according to the ICC, “by the Treaty of Vincennes of December 9, 1809 (7 Stat. 117), captioned “A treaty between the United States of America and the Kickapoo tribe of Indians,” the sachems and war chiefs of the Kickapoo Tribe, on the part of said tribe, ceded Royce Areas 73 and 74 to the defendant. Although only Vermilion Kickapoo signed the treaty, by its terms, it is, nevertheless, a treaty with the Kickapoo Tribe.”²⁹⁰

Referring to the Treaty of June 4, 1816 (7 Stat. 145), between the U.S. government and “the tribes of Indians called the Weas and Kickapoos,” the ICC concluded that these tribes acknowledged therein the validity of and declared their determination to adhere to the Treaty of Greenville of 1795, and all subsequent treaties which they respectively had made with the U.S. “Moreover, by Article 4 of the 1816 Treaty, the ‘chiefs and warriors of the said tribe of the Kickapoos’ acknowledged former cessions including that of the Treaty of December 9, 1809. Under the signature caption ‘Kickapoos,’ appear the names of a number of Vermilion Kickapoos, and that of Keetahtey, or Little Otter, a Prairie Kickapoo. Keetahtey had been invited to the treaty assembly by the U.S. Treaty Commissioner because of his known friendship with the Vermilion Kickapoo. Before the ICC, the attorneys for the U.S. government asserted that Keetahtey signed only as a friend and not as a Prairie Kickapoo. We do not agree. The 1816

²⁸⁹ ICC Docket #315, 70.

²⁹⁰ Ibid.

Treaty, through its signatories, links both the Vermilion and Prairie Kickapoos to the 1795 Treaty of Greenville, and to the recognized title gained thereunder.”²⁹¹

Regarding the Treaty of July 30, 1819 (7 Stat. 200), that was negotiated between the U.S. government and the “principal Chiefs and Warriors of the Kickapoo Tribe of Indians,” the ICC concluded that the Indian participants and signatories, including Little Otter, or Keetatta, were all Prairie Kickapoo. They went on to conclude, “However, Article 1 refers to ‘their’ cession, made by the second article of ‘their’ treaty at Vincennes on 9th December 1809, which, as we have shown, was signed only by Vermilion Kickapoo. The U.S. government was dealing with the Vermilion and Prairie bands as part of a consolidated Kickapoo tribe. This is further evidenced by still other references in Articles 1 and 4 of this treaty to prior cessions and treaties between ‘said Kickapoo tribe’ and the United States. It is immaterial whether or not such treatment stemmed, as the defendant alleges, from the treaty Commissioners’ lack of knowledge of the internal structure of the Kickapoo tribe.”²⁹²

The Treaty of August 30, 1819 (7 Stat. 202), which was negotiated between the U.S. government and the “Chiefs, Warriors, and Head Men, of the tribe of Kickapoo of the Vermilion,” is the only treaty specifically naming the Vermilion Kickapoo. In interpreting it, the ICC factually determined that this cession substantially overlapped that of the July 30, 1819 treaty, and the two tracts of ceded lands are shown together as one area on the Royce Map of Indian Land Cessions. Hence, the commissioners concluded it to be consonant with their finding and conclusion that the U.S. government had dealt with the two bands as a unified tribe.

In an overarching final conclusion, the ICC ruled, “having determined that the Kickapoo Tribe gained a recognized title interest under the Treaty of Greenville of August 3, 1795, and

²⁹¹ Ibid, 71.

²⁹² Ibid., 71-72.

under the subsequent ‘follow-up’ treaties, we have found it unnecessary to determine whether the Kickapoos had Indian title to any portion of Royce Area 110.”²⁹³ It was ordered that this claim proceed to a determination of acreages, fair market values, the consideration paid to the several plaintiffs for their interests in the respective lands, and all other matters bearing on the U.S. government’s liability. In 1979, the United States Court of Claims awarded a compensatory judgment in the amount of \$11,427,130 to the Kickapoo Tribe of Kansas, the Kickapoo Tribe of Oklahoma, et al. and Congress appropriated the requisite funds on March 1, 1979.²⁹⁴

Like me, I suspect that many local residents of Livingston County, Illinois, and surrounding areas would be very surprised to learn that it took until February 3, 1980, for a federal plan to be put in place for the use and distribution of the funds owed to the Kickapoo Tribe of Oklahoma (i.e. Southern Kickapoo) as compensation for the ancestral homelands they were forced to relinquish.²⁹⁵

²⁹³ Ibid., 72.

²⁹⁴ Senate Executive Communication 310, 96th Congress (1979-1980), January 18, 1979.

²⁹⁵ “Kickapoo Tribe of Oklahoma,” Awards of Indian Claims Commission Dockets 315 and 338.

CHAPTER 20

PERFUNCTORY JUSTICE

The Kickapoo have never passively resigned themselves to a fate of dispossession and misfortune. To the contrary, they have doggedly resisted prolonged and egregious mistreatment, just as they have steadfastly adhered to their culture and lifeways. Therefore, it will come as no surprise to learn that they left no stone unturned in seeking redress before the ICC.

Fourth Claim

The claim was filed by the *Kickapoo Tribes of Kansas, Oklahoma, et al.* and pertained to lands ceded to the U.S. by the Kickapoo Tribe under the terms of a treaty dated October 24, 1854. Earlier and as a result of the Treaty of October 24, 1832, as supplemented on November 26, 1832, the Kickapoo Tribe ceded its lands in Missouri for 1,200 square miles of land, or 768,000 acres, in northeast Kansas. Under the Treaty of May 18, 1854 (ratified on July 17, 1854), the Kickapoo Tribe ceded 618,000 acres of those Kansas lands to the U.S. and received payment of \$300,000, or \$1.67 per acre. Of that sum, \$100,000 was to be invested at 5 percent interest and the interest was to be used for educational and other purposes. The remaining \$200,000 was to be paid in varying installments over a period of twenty years.

At the same time, there were 150,000 acres “in the western part thereof” reserved as a permanent home for the Kickapoo Tribe. As represented by Royce Area 325, the Kickapoo Cession contained only 502,125 acres rather than the 618,000 acres as contemplated by the Treaty of 1854. Hence, the dispute in this claim centered on valuation of the additional 115,875 acres of land lying directly west of the 150,000-acre reserve to compensate for the difference between the actual acreage of Royce Area 325 and the 618,000 acres which it should have contained. In effect, the U.S. government was alleged to have short-changed the tribe of

compensation for more than 115,000 acres of land, which was referred to as the “deficiency area.”

The Kickapoo Cession was very favorably and strategically located in northeast Kansas, bound on the east by the Missouri River beginning with the Fort Leavenworth Military Reservation at the southeast corner and extending up the Missouri River to a point about six miles north of present-day St. Joseph, Missouri. The 115,875-acre “deficiency area,” lying directly west of the Kickapoo reserve, comprised parts of Nemaha, Brown, and Jackson counties. Forty percent of it is in the most fertile and productive agricultural region in Kansas—the Loess Hills Region—and contains the two most productive kinds of soil in the state. Accordingly, in 1854, the soil was known to be mostly first rate.

Fort Leavenworth on the south and St. Joseph on the north were the main points for outfitting emigrant trains headed west to Oregon, Utah, Santa Fe, or California. Those communities were also focal points of frontier commerce and trade, connecting the far West with the eastern U.S.

Euro-American pioneers had been cutting timber, exploring, and otherwise trespassing on the Kickapoo lands for some time prior to July 1854, but very few white settlers were living there at that time. This was due, in large measure, to the efforts of BIA Commissioner Manypenny, who was active in discouraging the settlers from infringing on the territorial rights of the Kickapoo and other tribes, who had been resettled in the region.

The pressure for the removal of the Kickapoo and the opening of their lands to white settlement, resulting in the 1854 claim, was attributable to two principal reasons: 1) demand for land; and 2) demand for food, supplies, and governmental protection for the large number of emigrants traveling through those lands. The emigrants were attracted by opportunities resulting

from the annexation of Texas in 1845, the Mexican Cession of 1848, the discovery of gold in California in 1849, and the enactment of the Kansas-Nebraska Act of 1854. It was also common knowledge in eastern Kansas at the time of the Kickapoo treaty that the choice government lands there were more valuable than the minimum statutory price of \$1.25 per acre. Predictably, this led to illegal use of the pre-emption laws and to speculation in the choice lands in many instances.

A law enacted on July 22, 1854, extended the provisions of the Pre-Emption Act of 1841 to the Kickapoo Cession. The latter statute legalized the settlement of public lands prior to them being offered for sale. Predictably, those Kickapoo lands were surveyed in 1856, before being offered for public sales by the U.S. government in 1859. Under the terms of the Pre-Emption Act of 1841, an individual who did not own land in the territory and who was a proprietor of less than 320 acres in any state, could secure 160 acres of land in the territory at the statutory price of \$1.25 per acre, provided Indian title had been extinguished, and the claimant had actually settled on the land and had erected a dwelling.

On May 4, 1962, the ICC found that the Kickapoo Cession lands of 1854 (618,000 acres) had a fair market value as of July 17, 1854, of \$1,236,000 or at the rate of \$2.00 an acre.²⁹⁶ In rendering its judgment, the ICC determined:

Although the pre-treaty negotiations of 1853 and the treaty negotiations of 1854 between representatives of the U.S. government and the Kickapoo do not indicate that the Government representatives deliberately attempted to deceive the Indians with respect to the value of their lands, nevertheless, the disparity between the consideration received by the Kickapoo Tribe and the fair market value of their lands at the time of the treaty cession to the defendant renders the consideration unconscionable and we so hold.²⁹⁷

²⁹⁶ ICC Docket #316, 332.

²⁹⁷ Ibid.

At the same time, the ICC ordered that \$300,000 in prior payments by the U.S. government to the Kickapoo Tribe be subtracted from the total award, leaving a remaining balance of \$936, 000 to be paid on this claim.

Subsequently, revisiting this claim on August 31, 1965, the ICC made additional factual findings and issued an opinion regarding offsets of \$507,001.96 requested by the defendant (U.S. government) against the additional payment of compensation to the tribe, which had been initially approved more than three years earlier. The offsets being sought included the payment of depredation judgments against the Kickapoo, expenditures for the prior purchase of land for the tribe, and other expenses incurred over a period of many years for the support and benefit of the tribe.

In response, counsel for the Kickapoo denied the validity of all these claimed offsets asserting that these benefits were either not gratuities, were individual rather than tribal benefits, or that the entire course of U.S.-Kickapoo dealings made them disallowable as offsets under the Indian Claims Commission Act. The ICC did not agree with either party and proceeded to allow some of the requested offsets, while denying others. For instance, the ICC determined that it was the intention of Congress to recognize Kickapoo permanent rights in the land set aside for their reservation in Indian Territory in Oklahoma. Congress, by an 1866 treaty, had purchased the tract in Indian Territory for the purposes of locating “other Indians and freedmen thereon,” to which the Kickapoo were later assigned. Congress then appropriated money to collect the Kickapoo “roving on the borders of Texas and Mexico, and to locate and subsist them in the Indian Territory.” U.S. Commissioners were dispatched to persuade the Kickapoo in Mexico to return to the U.S. by offering them a reservation. They were carrying out congressional intent, as evidenced by the communication of Commissioner Nelson Miles in which he referred to “the

kind offer made by the Great Father at Washington” and then explained that one of the chiefs did not like the idea of taking his people up to an unknown reservation without some assurance that the land was good. Nevertheless, these Kickapoo were relocated on the north fork of the Canadian River. In an 1876 report, the BIA agent, in referring to the lands of the Kickapoo and Shawnee, spoke of “the baneful influence of unauthorized white men upon these reserves.”²⁹⁸

Apparently because white people were making attempts at colonizing their lands, the Kickapoo desired additional action on the part of the U.S. government to secure the lands they were occupying.²⁹⁹

On the underlying question, the ICC concluded in favor of the Kickapoo. “We think it is clear from these actions of Congress and the ‘pronouncements of responsible government officials’ as they carried out their assignments, that it was the intention of Congress to recognize permanent rights in these Kickapoos to the land to which they removed in 1874.”³⁰⁰

Raising a new question, attorneys for the defendant (U.S. government) alleged that the reservation in Oklahoma to which the Mexican Kickapoo removed and settled upon was, in fact, a gratuity allowable as an offset against any award in this claim. They asserted that, “The grant of land in Oklahoma and the agreement of the Kickapoo to remove were quid pro quo and that the Kickapoo Indians had been offered all sorts of inducements by the Mexican Government to remain in Mexico.”

The ICC found in favor of the U.S. in this matter.

We agree with the defendant that the reservation was a gratuity. The offer of the U.S. to grant the Kickapoo in Mexico a reservation, removal expenses, and subsistence in return for their voluntary removal to such reservation in the U.S. did not contain a request for consideration but was rather an offer of a gratuity subject to a condition. These Kickapoo, among other things, were promised a reservation in the Indian Territory if they

²⁹⁸ Ibid., 651-657

²⁹⁹ Ibid., 657.

³⁰⁰ Ibid., 658.

voluntarily removed themselves to it. The only thing the Kickapoo gave up, aside from benefits derived from illegal raids into Texas, was a rather tenuous arrangement with local citizens and officials in Mexico.³⁰¹

The value of that gratuity was \$312,899.37 according to the ICC. However, the boundaries of the reservation in Oklahoma were not officially defined by metes and bounds until the president of the United States did so by executive order in 1883.

In its final opinion on September 29, 1967, the ICC allowed \$464,558.74 in gratuity and offset payments such as land purchase, expenses of subsistence supplies, equipment, agricultural aid, purchase of livestock, and transportation of supplies against the original award of \$1,236,000 announced in 1962 and awarded a total of \$771, 441.26 to be paid to the Kickapoo on this claim.³⁰²

Fifth Claim

The Kickapoo Tribe of Kansas and the Kickapoo Tribe of Oklahoma sought a general accounting of the U.S. government for obligations under each of the treaties entered into between 1795 and 1891. The U.S. General Accounting Office (GAO) was ordered to produce a pertinent report on each of the treaties. Subsequently, after an ICC hearing, all parties agreed on April 21, 1966, that the U.S. had no further obligations related to the delivery of salt pursuant to the Treaty of June 7, 1801, or for interest payments due under the Treaty of May 18, 1854. However, it was also determined that the U.S. had not accounted for \$11,511.53 and was directed to pay monies due the Kickapoo in 1860. Of that total, \$9,000 was an annuity payment under the Treaty of May 18, 1854, \$2,000 in back interest, and \$511.53, which BIA Agent W.P. Badger absconded with.³⁰³

³⁰¹ Ibid.

³⁰² ICC Opinion, Docket #316, 553-555.

³⁰³ ICC Final Judgment, Docket #145, 676-677.

Sixth Claim

On February 29, 1968, the ICC approved a compromise settlement reached between contesting attorneys on a claim filed earlier in the decade on behalf of the Kickapoo Tribe of Kansas, Oklahoma, et. al. The tribes had sought redress for “an allegedly unconscionable consideration” based on the Kickapoo cession of a tract of land in Southwest Missouri to the U.S. under the terms of the Treaty of October 24, 1832. The Missouri tract of 1,868,500 acres was acquired by the Kickapoo under a treaty concluded July 19, 1820 (7 Stat. 208, 2 Kappler 189), supplementing an earlier treaty concluded July 30, 1819 (7 Stat. 200, Kappler 182), whereby certain lands in Illinois were ceded to the U.S. For the 1832 cession of the Missouri tract, the Kickapoo received payments and expenditures in the amount of \$143,000, at a rate of 13 cents an acre at the time, and a new reservation in northeastern Kansas of 768,000 acres. The ICC awarded the Kickapoo an additional \$540,000 for land after all allowable deductions, credits, and offsets.³⁰⁴

Seventh Claim

On June 11, 1969, the ICC issued its factual findings and final judgment on a claim filed earlier in the decade by the Kickapoo Tribe of Oklahoma. The dispute arose from provisions of the tribal land cession to the U.S. comprising much of the Oklahoma reservation dating from September 9, 1891 and ratified by statute enacted on March 3, 1893 (27 Stat. 557). The tribe had received title to the ceded reservation on October 1, 1874, as a gratuity from the U.S. government.

Under the terms of the September 9, 1891 agreement, the Kickapoo ceded to the U.S. approximately 184,300 acres out of the total acreage in the Oklahoma reservation, and the

³⁰⁴ ICC Final Judgment, Docket #193, 52-53.

balance of the remaining tribal land was disposed of mainly in allotments to individual tribal members. The U.S. paid the Kickapoo \$64,650 in cash for the land.

In 1908, an additional \$215,000 was appropriated by Congress, which was petitioned by the tribe, making a total for the ceded reservation of \$279,650 or approximately \$1.50 per acre. Accordingly, in this claim, the Kickapoo asserted that the total amount previously received for this land constituted “an unconscionable consideration when compared with the value of the land at the time of the cession.”³⁰⁵

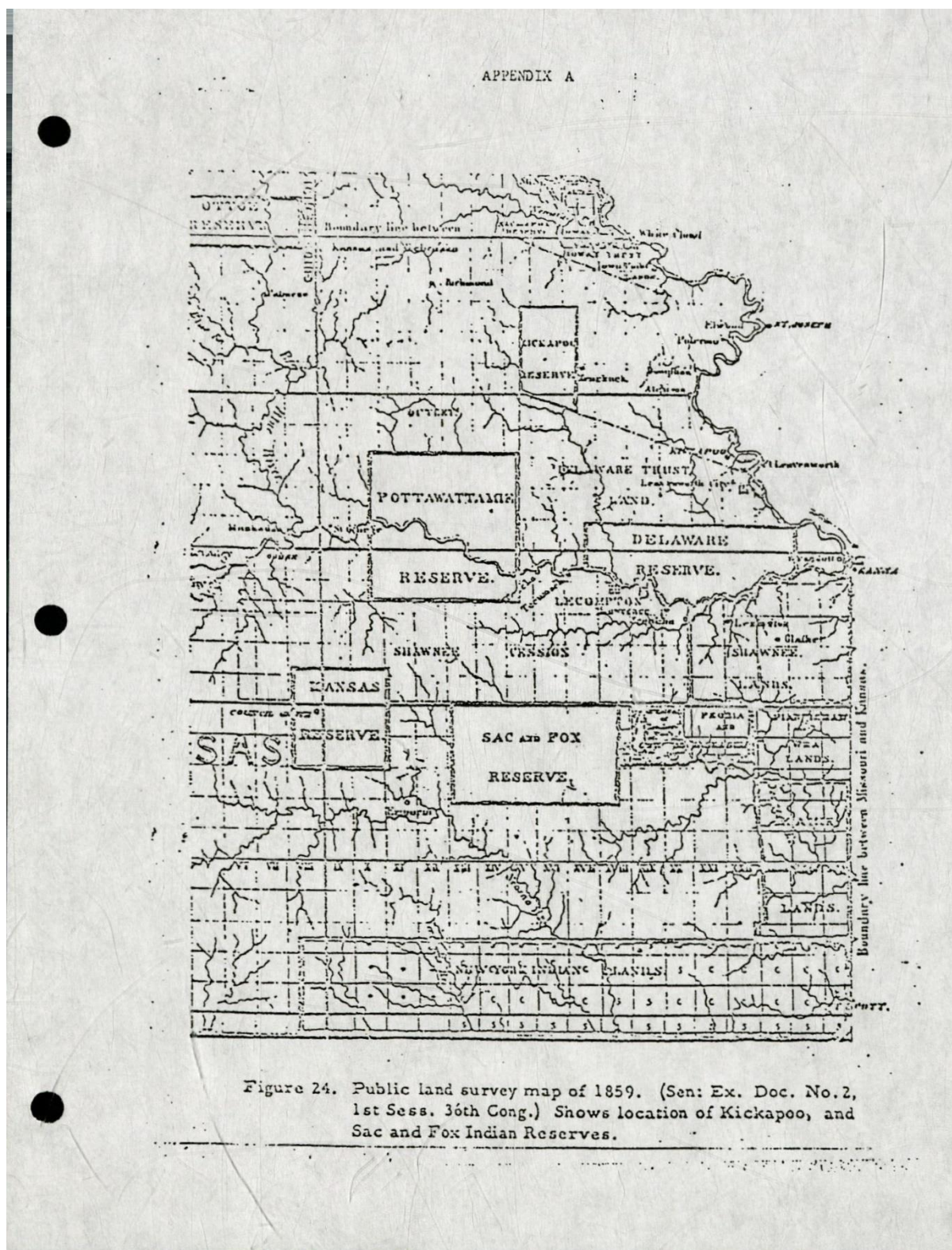
The ICC found in favor of the Kickapoo and approved a mutually agreeable, final settlement on this claim negotiated between attorneys for the tribe and the U.S. government and approved by all parties, ordering a payment of \$273,250.³⁰⁶

Eighth Claim

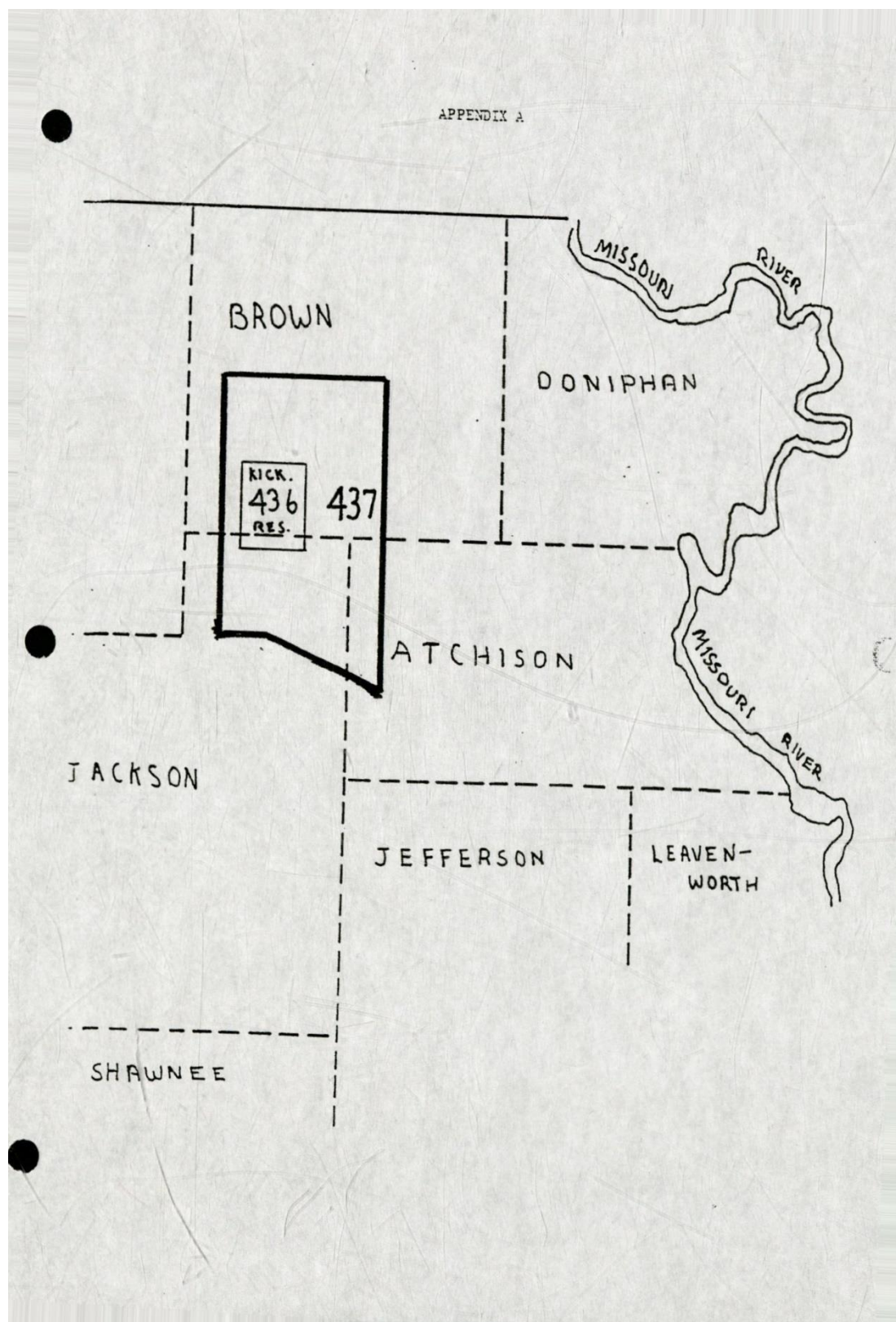
On June 10, 1970, the ICC issued its opinion on this claim filed by the Kickapoo tribes of Kansas, Oklahoma, et. al. in the prior decade. It concerned the Kickapoo reservation in northeastern Kansas, 123,832 acres of which were ceded to the U.S. by the Treaty of June 28, 1862 and ratified on March 13, 1863 (13 Stat. 623). Thereafter, the U.S. government sold this land to the Atchison and Pike’s Peak Railroad for \$1.25 an acre. (See corresponding images)

³⁰⁵ ICC Factual Findings, Docket #318, 40.

³⁰⁶ ICC Final Judgment, Docket #318, 49.



Map circa 1859, locating the Kickapoo reservation in present-day northeastern Kansas. Source: Official Report and Findings of the Indian Claims Commission (Docket # 316-A, p. 202.)



Map circa 1859, locating Kickapoo reservation in present-day northeastern Kansas. Source: *Official Report and Findings of the Indian Claims Commission (Docket # 316-A, p. 202.)*

The Kickapoo sought additional compensation on two grounds: (1) “unconscionable consideration;” and (2) “fraud and duress under section 2 (3) of the Indian Claims Commission Act 1946 (60 Stat. 1049).”³⁰⁷ The lands involved had been held by the Kickapoo under recognized or reservation title. But that title was extinguished when, by Article 14 of the 1862 Treaty, all rights, title, and interest of the Kickapoo in their reservation were ceded to and vested in the U.S. By the terms of Article 16 of the same treaty, the ratification date of March 13, 1863, became the effective date and, therefore, the proper valuation date, affirmed by the ICC. The tribal attorneys had argued that the surplus lands should have been valued as of August 10, 1865, the date when the Atchison and Pike’s Peak Railroad exercised its option to purchase the lands. Nevertheless, the Kickapoo contended that the fair market value of the surplus lands averaged \$8.21 per acre, relying upon the resales of land in the tract during the years 1872-1880 and asserting that \$8.21 per acre “was a reasonable approximation of the value of the Kickapoo lands as of August 10, 1865.” In response, the attorneys for the U.S. government maintained that the fair market value as of March 13, 1863, was \$1.55 per acre.

The ICC determined that the 1872-1880 resale prices of the disputed lands clearly were not significant in light of the March 13, 1863, valuation date. Furthermore, according to the ICC, many changes had occurred in Kansas in the intervening years between 1863 and 1872. Consequently, any attempt to relate 1870s sales of land in the ceded tract to an 1863 fair market value ignored the facts that the resales between 1872 and 1880 were made under substantially changed and unusually favorable conditions which did not prevail in 1863.

In response, the Kickapoo had taken the view that the “depressing factors” of the early 1860s ought not be charged to the Indians. Furthermore, the attorneys for the tribe argued that

³⁰⁷ ICC Opinion, Docket #316-A, 189.

the net effect of the Atchison and Pike's Peak Railroad's acquisition of the lands under the 1862 Treaty for the consideration of the railroad and its resale at higher prices of the lands which it did not need, constituted the granting by the Indians of a subsidy to the railroad. For granting that subsidy, the Kickapoo felt they should be reimbursed in terms of the resale value of the land. They contended that if the U.S. had undertaken to sell the Kickapoo's surplus lands in trust, as it had for many other tribes, and if the sales had been handled diligently, it is probable that the same \$8.21 an acre price would have been received. Despite the intriguing rationale underpinning the tribe's claim, the ICC found that under the 1862 Treaty, the Kickapoo had ceded the lands to the U.S. on March 13, 1863, and accordingly, that their right to recover on the ground of "unconscionable consideration" must be based on the fair market value of the lands in 1863.

Next, the ICC turned its attention to arriving at a fair determination of the market value of the tribal lands in question, citing such factors as the prices at which the land was sold, the extent of the demand, the quality of the land, and its use at the time. The Kickapoo attorneys did not introduce any testimony by an expert on land valuation. Instead, they newly introduced evidence of abstracted resales of the Iowa and Delaware Indian trust lands, which occurred in 1860, 1861, and 1862. The ICC found this new information helpful, as was additional information about the appraisals and sales of Indian reservation land in Kansas during the 1860s. In conclusion, the ICC determined that "the 1863 fair market value of the Kickapoo land in question was higher" than what they had been paid.³⁰⁸ More specifically, the ICC declared:

In reaching our determination of the 1863 fair market value of the Kickapoo lands, we have considered the evidence presented by the parties including the Delaware and Iowa trust land resales data, the Indian reservation land appraisals and sales, the opinions of defendant's expert appraisers, the physical factors of the ceded tract, its location, and the market conditions pertaining in the early 1860s. The Kickapoo tract was very favorably

³⁰⁸ Ibid., 194.

located with respect to the impending population movements in the U.S. There were transportation facilities in the neighboring areas, and there was the prospect of a rail line through the area. In fact, provisions for such railroad construction were in the 1862 Treaty. The land was well suited for agricultural pursuits and would have been attractive to a prospective 1863 buyer.

Upon consideration of the entire record in this case and the findings we have entered on that record and for the reasons we have set forth, the Commission has concluded that the fair market value of the area of 123,832.61 acres was \$280,000 as of March 13, 1863.

Since the consideration paid by the defendant (the U.S.) was \$154,790.39, this would leave a difference of \$125,209.61 between the fair market value of the tract and the amount paid for it. Therefore, the plaintiffs (the Kickapoo) received only 56 percent of the true value of the tract. The Commission concludes that the consideration paid the Kickapoo Tribe was so grossly inadequate as to be unconscionable.³⁰⁹

On September 24, 1970, the final award of \$125, 209.61 to the Kickapoo was ordered.

On balance, it does not get any easier to evaluate the efficacy of the ICC process and the merits and demerits of that commission's body of work with the passage of time. A very sordid and problematic history persists, weighing on our collective conscience, and many troubling questions remain unanswered. What measure of justice was provided and for whom? Could and should the U.S. government have been much more forthcoming? What more could have been done? What remains to be done toward forging right relations with the Kickapoo and other Native Americans?

Admittedly, some positive results accrued from the ICC's fact-finding, adjudicatory processes, deliberations, and judgments. To note a few examples, some tribes spent and invested their awards wisely to benefit their local economies. Many of those same tribes hired fulltime legal counsel to serve their exigent needs and continuing interests, thus raising "legal consciousness" and developing in-house legal expertise. Furthermore, some segments of non-Native mainstream society, in public and private life, have concomitantly had their own legal

³⁰⁹ Ibid., 195-196.

consciousness raised concerning Indians, reservations, and the unique tribal relationship with the U.S. government traceable to the historic but active treaties. Certainly, the rich ethno-historical research findings, amassed as a byproduct of the ICC's work, constitute an unprecedented source for the study of Native/non-Native relations.

Still, the capacity of the U.S. government to help meet the compelling needs of the Kickapoo and other Indian tribes much more fully and fairly was in the past and remains well within the realm of possibility. The ICC might have firmly and creatively met these issues such as tribes' needs/desires to preserve their land, but it did not. In the Taos case of 1965, it brushed close to the Indian heart and found that "religion permeated the Pueblo's way of life," but held it as an isolated example. The result was that the Indian tribes via a commission, that cost the USG only \$15 million to operate for 32 years—another \$200 million was expended by the other agencies involved—paid \$100 million in legal fees to pry loose some \$800 million properly owed them. For 30 years, most of this sum remained in the U.S. Treasury, interest free at a benefit to the government. Not only was the government not "buying back America," but its belated adjustments on the original improper treaty payments were in cheaper dollars than those of 1946, not to mention the last century. All parties would have been better off, one tribal attorney wrote; if the government had simply transferred \$150 million to a trust account in 1946 and allowed the claimant to reap 30 years' interest.³¹⁰

From their viewpoint, the tribes benefited very little from the often small and quickly squandered per-capita awards. And, if anything, many of these cases were less final than before. In airing out the treaties to pay up the original bills, the other commitments such as land title

³¹⁰ H. D. Rosenthal, *Their Day in Court: A History of the Indian Claims Commission* (New York: Garland, 1990), 256.

opened whole new vistas to the searching eye of the law and tribes now more seasoned in that law.

The last question that needs an answer is did the Kickapoo and other tribes gain “their day in court?” In narrow, technical terms, the answer is arguably yes. The ICC functioned as a court of sorts, complete with appellate bodies. According to H.D. Rosenthal, “Though represented by some of the best legal counsel in the country, the tribes prosecuted to a finish 549 claims and won awards on 57 percent of them. Nevertheless, the ICC Commission was created for the express purpose of circumventing the technical letter of the law and allowing moral claims heretofore ‘not recognized by any existing rule of law or equity.’ This is how the tribes understood and expressed most of their claims. The ICC commissioners and the attorneys who appeared before them, though, ‘refined’ those claims into language for presentations that had long been recognized by existing rules of law or equity (i.e. money damages for injuries against property and breach of contract). In this sense, the Indian did not have his day in court and it should be added that he is still seeking the other twenty-three.”³¹¹ In sum, the ICC took a somewhat tentative, short step by way of redress, but offered only money. There are much harder payments yet to be made.

The opportunity still exists for the powers that be to face squarely Indigenous peoples in our midst who remain shuttered away in reservations and by myths. Maybe enough time has passed to appreciate that the triumphs of the frontier period were mitigated by shameful dealings with the Indians. The record is all too well documented in 374 treaties and hundreds of thousands of related documents. Indeed, to use the words of Cecil Eby, “To dust off and to pour over these old account books might show us what investments to avoid in the future. That would certainly

³¹¹ Ibid.

be one path evening the balance of the future, though the debits of former errors will remain forever old debts beyond reparations, atonement, or forgiveness.”³¹²

In final analysis, the core issue of land versus money payment dealt with only once by the ICC in the Taos/Blue Lake claim, was never completely understood or accepted by the Kickapoo and other tribes who filed claims, let alone those tribes who did not. In the opinion of Vine Deloria, Jr., a highly regarded Native American scholar, “the ICC did not liquidate Indian rights or even Indian title, but simply ‘updated the legal parity’ of the land purchases as of the date the United States made them.” Rather than finally settling the Indian claims, says Deloria, the ICC worked “merely to clear out the underbrush and allow the claims created by the forced political and economic dependency during the last century to emerge.”³¹³ The underlying, unresolved issue of land title persisted because many Indians still believed that their title, which had been delineated in their respective treaties, had never been extinguished by cession or conquest. In their view, they had only granted usufruct rights—use—and they saw the establishment and operation of the ICC as tacit acknowledgment of their beliefs.

For policymakers, the ICC set the stage and functioned politically as a complement to yet another dramatic shift in federal Indian policy, practically speaking, in favor of renewed pursuit of the forced assimilation of Native Americans into mainstream, post-World War II popular culture in the U.S. and the corresponding permanent termination of the Kickapoo and other targeted tribes.

³¹² Cecil D. Eby, *The Black Hawk War: That Disgraceful Affair* (New York: Norton, 1973), 256-257.

³¹³ Rosenthal, *Their Day in Court*, 250.

CHAPTER 21

ATTEMPTED DISAPPEARANCE AND ERASURE BY U.S. GOVERNMENT

FIAT

In the 1946 midterm elections, Republicans regained majority control in Congress and, with the support of the Truman administration, the federal policy pendulum swung back in the opposite direction with a vengeance during the Termination and Relocation Era between roughly 1947 and the late 1960s. They were embarked yet again on a fool's errand, but that didn't slow down the stampede at either end of Pennsylvania Avenue. As former U.S. Senator Ben Nighthorse Campbell (D-CO) and a Northern Cheyenne tribal member has noted, "If you can't change them, absorb them until they simply disappear into the mainstream culture. ... In Washington's infinite wisdom, it was decided that tribes should no longer be tribes, never mind that they had been tribes for thousands of years."³¹⁴

No time was wasted in radically redirecting Native/non-Native relations. For example, the House Interior Committee ordered a comprehensive review of Indian affairs in 1950, which incredibly predicated its work on the application of the philosophy of Rene Descartes, the French rationalist of the 1600s and modeled its study after the medieval English Domesday survey of 1086. "If any other group had been subjected [as of 1950] to research techniques of the era of William the Conqueror, the nation would have risen in indignation and called for an investigation. But in the whimsical world of the Interior committees, Indians were such an unknown commodity that the ridiculous made sense, the absurd was normal," writes Vine Deloria, Jr. in *Custer Died for Your Sins*.³¹⁵ As outlined by an esteemed Indian historian,

³¹⁴ George Horse Capture, Duane Champagne, and Chandler C. Jackson, eds., *American Indian Nations: Yesterday, Today, and Tomorrow* (New York: AltaMira Press, 2007), 2-3.

³¹⁵ Vine Deloria, Jr., *Custer Died for Your Sins: An Indian Manifesto* (Norman: University of Oklahoma Press, 1969), 60-61.

Wilcomb Washburn, “A familiar pattern re-emerged in mid-century and we see an aroused Congress cloaking its own interests in a rhetoric of generosity toward the Indian. At the same time, it issued intimidating instructions to the Executive Branch to carry out this new policy with the unspoken assumption that the Indians could be cajoled, forced, frightened, or persuaded into recognizing the benevolent intent of the framers.”³¹⁶ As national policy, a renewed effort was undertaken to break up tribes deemed ready for termination once and for all and strip them of all forms of federal support. In retrospect, Robert Bennett, BIA Commissioner in the Johnson administration, has noted that congressional support for the work of the ICC throughout the 1950s was predicated on the belief that it would lead to a final dissolution of long-established federal responsibilities for Native Americans. “The feeling grew up in Congress,” he observed, “that if the people were to be paid for all their claims and unjustified acts on the part of the federal government ... this would mark the end of any kind of relationship with the federal government.”³¹⁷ In effect, the government would pay its debts to the tribes once and for all and that compensation would absolve the U.S. government of its historic mistreatment of Native Americans. Deloria notes, “Unbearable pressures, lies, promises and threats of termination were made whenever a tribe won funds from the United States because of past swindles by the federal government [via an ICC judgment]. Whenever a tribe needed special legislation to develop its resources, termination was often the price asked for the attention of the committee. And if a tribe compromised with the Senate Committee, it was on the road to termination. Quarter was asked, but none given.”³¹⁸

³¹⁶ Wilcomb E. Washburn, *Red Man's Land/White Man's Law* (New York: Charles Scribner's Sons, 1971) 168-169.

³¹⁷ Donald L. Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico Press, 1986), 186.

³¹⁸ Deloria, *Custer Died for your Sins*, 63.

Concurrently, the U.S. Congress also opened the door for a few selected states—California, Texas, Florida, New York, and Wisconsin—to assume and wield much greater governing authority over tribes within their respective boundaries and jurisdiction, such as with Public Law 280.

Termination Policy Writ Large

With the strong support of the newly empowered Eisenhower administration, the Republican-controlled 83rd Congress on August 1, 1953, approved House Concurrent Resolution 108, thereby formally instituting a termination and relocation policy that remained in effect until the early 1960s. This major policy shift was adopted by unanimous consent in the House and without debate in the Senate.

More specifically, this resolution included removal of federal supervision and the closure of BIA offices in California, Florida, New York, and Texas. It also targeted the Flathead of Montana, the Klamath of Oregon, the Menominee of Wisconsin, the Potawatomi of Kansas and Nebraska, and the Turtle Mountain Chippewa in North Dakota as the first tribes to be terminated.

Proponents argued that the termination of federal trust protection for these comparatively semi-independent tribes would reduce federal paternalism. Opponents foresaw the exact opposite effect, and that increased federal outlays would be required to prepare the affected tribes for termination, thus fostering greater paternalism. The official policy was intended ostensibly to free a steadily increasing number of tribes of their longstanding federal trust ties. However, for all practical purposes, this new termination policy was cynically crafted to lead to the ultimate destruction of tribal cultures and Native lifeways, while compelling the desegregation of Indian communities, typically without their collective consent, and their forced integration into mainstream American popular culture. It should be noted, at the same time, that some Native

Americans individually wanted the prescribed withdrawal of federal supervision and trust constraints, claiming that being wards of the federal government historically had hindered their individual progress in business, such as selling their land holdings in order to raise investment capital and further develop their other holdings, and that they wanted to live as non-Indians. Hence, intratribal factionalism became endemic, as the specter of more and more termination bills were introduced in Congress, fueling growing fear and anxiety throughout Indian Country.

While the Republican-controlled Congress professed an overriding desire to assist Indians and improve their livelihood, increasing numbers of Indians viewed this sudden, radical departure in the direction of federal policies toward them as evidence that the federal government was out to get them once again. They foresaw the abrogation of tribal constitutions and the abolition of tribal corporations that had been established under the Indian Reorganization Act of 1934, and, even worse, the further repudiation of treaties that has been fundamental to tribal rights for many decades.

Initially, thirteen tribes were deemed ready for release from federal supervision, but Congress initiated termination action against only six tribes. Very quickly thereafter, a flood of termination bills was introduced during 1954, including one bill that included the Kickapoo Tribe of Kansas along with the Sac and Fox in Kansas and Nebraska, the Iowa of Kansas and Nebraska, and the Prairie Island Band of Potawatomi of Kansas. Of the 2,415 members from the four tribes, 600 were unemployed, while the rest lived in nearby towns or on small farms. Although these tribes were considered self-supporting by some federal officials, ultimately this particular bill failed to pass.³¹⁹ Had it been enacted, the Kickapoo people in Kansas would have been confronted with two options for disposing of their tribal properties within two to five years

³¹⁹ Fixico, *Termination and Relocation*, 101-102.

typically: (1) choose a trustee to manage a newly-organized corporation in their name; or (2) sell all their properties and assets with the proceeds to be divvied up among tribal members. Failure to pick between those options would have resulted in the U.S. Secretary of the Interior simply transferring titles of properties to a trustee of his choice, who would have then assumed temporary ownership for liquidation purposes.

Congress had never been so active legislatively on Indian affairs. During the first two years of the Eisenhower administration, a small cabal of legislators led by U.S. Senator Arthur Watkins (R-UT) and U.S. Representative E.Y. Berry (R-SD) advanced many termination bills. “Poor tribes with no means to come to Washington and protest against proposals were in greatest danger. Absolute terror spread through Indian country as the power of the committee was arbitrarily used against the helpless Indian communities,” Deloria said.³²⁰ A legislative summary memo authored by BIA Commissioner Glenn L. Emmons on September 24, 1954, determined that 288 public bills and resolutions concerning Indian affairs had been introduced in the 83rd Congress. Forty-six of those measures were enacted. In addition, the BIA submitted 162 reports on Indian affairs to congressional committees.³²¹

In the run up to the 1956 presidential election, proponents of termination inside and outside of the Eisenhower administration maintained that the solution for getting the federal government out of the Indian business was to improve the economy of Indian people so they would no longer need any type of federal assistance. They stressed that the development of mineral resources on tribal lands and increased timber sales were needed to attract industry to reservations. U.S. Secretary of the Interior Douglas McKay, for instance, railed against too much

³²⁰ Deloria, *Custer Died for your Sins*, 64-65.

³²¹ Fixico, *Termination and Relocation*, 105-106.

federal involvement in Indian affairs. When he cut the number of BIA employees nationwide from 13,000 to 10,000, he proclaimed there was “still too damn many bureaucrats.”³²²

In contrast, opponents of termination bills on Capitol Hill and elsewhere accused their legislative sponsors of exploiting the issue and vulnerable Indians with misleading, high-sounding rhetoric for short-term, partisan political gains. They alleged that their colleagues were exploiting Indians for votes and political favors, when their true motives were to make tribal lands and natural resources more available to non-Indian constituents. U.S. Senator Frank Church (D-ID), for example decried that “It is exceedingly disturbing that the exploitation policy is being carried forward in the name of our tradition of liberty and freedom.”³²³

In its hurry “to get out of the Indian business,” as the scholar Donald L. Fixico notes, “Bureaucrats were predisposed to believe that H.C.R. 108 would serve as the official legislative blueprint for integrating Indian Americans, but they were blinded to the realism of the Indian’s almost instinctive rejection of mainstream norms.”³²⁴ Nevertheless, between 1954 and 1960, a total of sixty-one tribes, Indian groups, communities, rancherias, and allotments were terminated by congressional legislation.

The Onset of Public Law 280

Just as the adjudication of tribal claims before the Indian Claims Commission, beginning in 1947, set the stage for the Republican-controlled Congress to craft and advance the new termination policy, so too, did the termination of targeted tribes necessitate the devolution of pre-existing federal authority and governmental powers over the lives of affected tribal members.

³²² Ibid., 109.

³²³ Ibid.

³²⁴ Ibid., 110.

Accordingly, President Eisenhower signed Public Law 280 on August 15, 1953 of which H.R. 1063 had been a precursor and issued the following statement: “Although I have grave doubts as to the wisdom of certain provisions in H.R. 1063, I have today signed it because its basic purpose represents still another step in granting equality to all Indians in our nation.”³²⁵ Shortly thereafter, he told the supporters of this sweeping new statute that he wanted the new law amended during the next session of Congress to explicitly require consultation with the affected tribes prior to the application of newly-established state jurisdiction over their affairs. In response to the President’s request, seven bills were introduced subsequently in the 84th Congress, but none of them were approved.

P.L. 280 authorized the states of California, Nebraska, Minnesota, Oregon, and Wisconsin to assume and exercise civil and criminal jurisdiction over all Indian lands within their boundaries and to assume responsibility for supplying essential government services to Indians, which had previously been provided by the federal government. It was assumed that other states would quickly follow suit in assuming far-reaching new jurisdiction to regulate Indian affairs and provide needed services. The legislative rationale for the law was that it would facilitate and contribute to BIA decentralization, thus freeing more Indians from onerous federal restrictions. Many state government officials objected to having to suddenly assume the increased burden of handling substantial new responsibilities. Similarly, Native American leaders like Oliver LaFarge, Executive Director of the Association on American Indian Affairs, warned that the tribes targeted for termination were largely unprepared and would suffer profound adverse effects from the federal government’s hasty and reckless abandonment of its trust obligations and long-standing responsibilities. Their collective warnings were largely

³²⁵ Ibid., 111-112.

ignored. Yet, it soon became apparent that state governments lacked the expertise to deal with the complexities of Indian affairs and that tight state budgets could not readily accommodate the additional costs associated with providing essential services with substantial numbers of Indians within their borders. Quite simply, the enormity of the responsibilities to be transferred wholesale to state governments in conjunction with the dismantling of the BIA proved, in time, to be overwhelming in many instances.

In fact, the combined effect of termination policy and the enactment of P.L. 280 was to further impoverish many Native Americans. The BIA was inundated with protest letters from concerned citizens across the country and prominent religious organizations decried declining living standards on reservations where tribes had been selected for termination. One editorial in June 1955 reported that Indian living conditions were little better than those of former Korean refugees and called for the president's attention to alleviate the suffering of American Indians.³²⁶

Overall, Donald Fixico, a leading termination policy analyst, concluded:

The government lacked an adequate program for successfully assisting Indian people through the troublesome [termination] process. Meanwhile, haphazard efforts contributed to the socioeconomic plight of the red man. Only in a few cases did Indians seem to fare well in adapting to the white man's society. Although Indians mingled with local white communities, the majority of rural towns demonstrated prejudice toward them. ... Additional legislation and inadequate BIA efforts to help Indian people fostered a growing criticism of the federal termination policy at the state level as well.

Undoubtedly, federal officials wanted what was best for Indians, but they lacked the ability to perceive the social and psychological consequences that termination created for Native Americans. The federal government's efforts to pass the buck to state governments, under P.L. 280, forced American Indians to form new relationships with state agencies. Learning the system of applying for state services, while trying to assimilate into mainstream society, especially when conflicts existed between local and tribal interests, was too much to ask of a people who had learned to become dependent upon the federal government for over a century.

³²⁶ Ibid., 118.

Legislation put forth to help the assimilation efforts often became a hindrance. In the years that followed, most members of terminated tribes would not become middle-class citizens and would have to settle for lower-class status in American society.³²⁷

The Corollary Indian Relocation Program into American Cities

World War II and its aftermath had two profound impacts in Indian Country. First, proportionately as a percentage of the U.S. population, more Native American men volunteered for military service abroad and more Native American women worked in the war industries at home than any other American subpopulation. This convinced many non-Native policymakers that Native Americans were adaptable to working side by side with other Americans and were capable of living in mainstream society. Second, however, returning Native American veterans compounded the unemployment and widespread poverty that already existed on many reservations. The policy response from the federal government in the 1950s was to initiate a national program to relocate unemployed Native Americans, including but not limited to Native American veterans, to cities across the country far from their original homelands and communities. In Washington, D.C., it was widely thought that relocation would be conducive to Indian adaptation to urban living and improved job prospects. In fact, policymakers believed that reservations would no longer be needed, once growing numbers of Indians adjusted to their new urban surroundings.

Starting with the Navajos in Arizona and New Mexico, the federal government undertook to resettle employable Indians from their reservation lives into selected cities, including Denver, Salt Lake City, Chicago, Los Angeles, Oakland, and St Louis. More specifically, a BIA field office was established in Chicago during November 1951 to place Navajos in jobs, and the first Native Americans to be systematically relocated arrived the following February. Hence,

³²⁷ Ibid., 132-133.

relocation took its place beside termination as the second principal goal of federal Indian policy in the 1950s, with both focused upon deconstructing the BIA and decentralizing the federal authority over Indian affairs out of Washington, D.C. BIA Commissioner Dillon S. Myer, who had been in charge of the relocation of Japanese-Americans into internment camps during World War II, wanted to quickly ramp up this new program to recruit Indians for relocation and urban placement. Despite Myer's claims that his motives were to encourage Native Americans to live without federal supervision like other Americans and to improve their material living standards, he came under increasing criticism that BIA was cynically enticing Indians off their reservations, hurriedly scattering them throughout far-flung cities, and practically abandoning them to fend for themselves in short order.

Practically speaking, the application procedure for relocation was very simple and open to young and old Native Americans alike. According to Fixico, "After an initial request for relocation had been filed with a BIA official at an agency or area office, the paperwork began. After completing a review of the applicant's job skills and employment records, the official usually contacted the relocation office in the city of the applicant's choice. With clothes and personal items packed, the applicant customarily boarded a bus or train to the designated city, where he or she would be met by a relocation worker. Upon arrival, the newcomer received a check to be spent under the supervision of the relocation officer. Next, the officer usually accompanied the new urbanite to a nearby store to purchase toiletries, cookware, groceries, bedding, clothes, and an alarm clock to insure punctual arrival at work. In the city, the poorest of America's poor began a new day in what they hoped was a promising future."³²⁸

³²⁸ Ibid., 136.

That hopeful prospect seldom panned out. Native American lifeways were not easily squared with mainstream daily life in major U.S. cities. To cite a couple of examples, it was a new experience for almost all relocated Indians to live a regimented life according to a segmented strict timetable, whether required by one's job or an hour-by-hour schedule of vocational training or academic classes. To make matters worse, relocated Native Americans commonly found themselves in substandard economic living conditions in inner-city tribal ghettos, like Chicago's Uptown neighborhood.

Not surprisingly, Native American veterans of World War II and the Korean War fared better in the relocation program than more traditional Native Americans who had never left their rural communities and remote reservations. This comparatively better track record can be attributed largely to the prior experience that veterans had dealing with the outside world and their greater familiarity with the non-Native norms and values of mainstream culture. Also on the brighter side, one positive antidote for widespread Indian estrangement in the cities was the establishment of Indian urban centers. For instance, St. Augustine's Indian Center and the American Indian Center, both in Chicago's Uptown neighborhood, began offering counseling, temporary shelter, and other assistance to help urban Indians meet their basic human needs. In effect, the communal sensitivities of Indians living on reservations was partially recreated in urban settings, complete with powwows, Indian bowling and softball teams, and other related activities which helped relocatees preserve some semblance of their cultural Native identities within cities that otherwise seemed very alien and disconcerting.

Relocation peaked between 1952 and 1957, when over 17,000 Native Americans were placed and received services. An estimated 12,625 people were resettled in major cities, many of whom were living with family members who had made their own way to their locales before the

federal program came into existence. The average cost per relocatee amounted to \$403. The Chicago field relocation office reported that during February and March of 1957, the average Native American male who was relocated earned \$1.60 an hour, or approximately \$66 for a 40-hour week.³²⁹ It was also no coincidence that between 1954 and 1957, the BIA authorized the sale of more than 927,926 acres of Indian land, of which more than 292,488 acres were fee-patented and opened to non-Indian purchase.³³⁰ In total, between 1945 and 1960, 1,369,000 acres of Indian land was put up for grabs.

Support for termination, P.L. 280, and relocation policies steadily eroded, especially with the advent of President Johnson's call for a "war on poverty." Critics of those policies cited poor results, comparatively high program costs, and growing numbers in a steady stream of Native Americans who has been relocated earlier opting to return to reservation life, preferring rural poverty to having to sacrifice too much of their Native heritage and cultural traditions. During the Kennedy administration, termination policy had begun to be de-emphasized in favor of moving federal policy in the direction of maximizing Indian economic self-sufficiency, extending equal citizenship privileges and responsibilities to all Native Americans, and facilitating wider Indian engagement in mainstream American life. Fixico notes, "An emphasis on retaining tribal identities and tribal cultures, while working toward a greater Native American adjustment to [mainstream] society, reflected the post-termination attitude prevalent in the 1960s."³³¹

³²⁹ Ibid., 148.

³³⁰ Ibid., 162.

³³¹ Ibid., 198.

PART V
SURVIVANCE AND RENEWAL

CHAPTER 22

THE SELF-DETERMINATION ERA

The misguided and dehumanizing, two-pronged policy of termination and relocation was recognized as an abject failure by the end of the 1960s. It was tantamount to an experiment in cultural genocide and its demise gave rise to calls for dramatic change which, in turn, led to the current and more hopeful Era of Self-Determination in Federal Indian policy.

An increasing number of legislators foresaw the intrinsic flaws and moral bankruptcy of what had been attempted. They had been predicting for years that the Eisenhower administration's dogmatic approach and foolhardy preoccupation with the forced assimilation of Native Americans to help advance the federal government's goal of achieving a homogenized middle-class society blindly ignored the resolve of many Native Americans to preserve their own cultures and traditional values. More specifically, critics inside and outside of government warned that any policy would fail unless federal policymakers listened more carefully to tribal leaders, demonstrated greater mutual respect, and cross-cultural understanding, and tackled widespread and endemic social and economic problems in Indian Country. To underscore that reality, the *Denver Post* reported that the Oglala Sioux on the Pine Ridge Reservation, for instance, who numbered 12,300 people in 1960, averaged a monthly income of less than \$100 per family, and most of that pitiful amount came from public assistance.³³²

Fortunately, a fundamental policy shift began to take shape during the last years of the Johnson administration and blossomed during the Nixon administration. Native Americans were included within the scope of President Johnson's "war on poverty" and targeted to receive increased assistance under multiple programs designed to help build the "Great Society."

³³² Donald Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico Press, 1986), 174.

At roughly the same time, a new generation of Native American leaders and activists—such as Vine Deloria, Jr. (Lakota); Hank Adams (Assiniboine); Clyde Warrior (Ponca); Dennis Banks (Chippewa); Russell Means (Lakota); and the Bellecourt brothers Vernon and Clyde (Chippewa)—gave voice to “Red Power.” They collaborated with the burgeoning national civil rights, women’s rights, and environmental movements and led internationally recognized protests at Alcatraz in San Francisco, at BIA headquarters in Washington, D.C., and at Wounded Knee in South Dakota.

In response to extraordinary Indian activism, the Nixon administration formally renounced the policy of termination and relocation, bluntly criticizing prior federal actions designed to abandon federal trust obligations to Native Americans and demeaning efforts to coerce Native Americans into mainstream assimilation. To his credit, President Nixon then led a successful overhaul of federal Indian policy, culminating with the enactment of the Indian Self-Determination and Education Assistance Act in 1975. For nearly a half century now, Native American tribes, families, and individuals have attained greater control over their own lives, governance, resource allocation, and education. A renewal of cultural sovereignty among Indian tribes across the U.S. has comparatively flourished and it continues to gain strength, reach, and vitality.

Gerald Vizenor, a distinguished Anishinaabe/Chippewa scholar, explains, “Survivance is an active sense of presence, the continuance of Native stories, not a mere reaction, or a survivable name. Native survivance stories are renunciations of dominance, tragedy and victimry.”³³³ As such, the Kickapoo have always been at the vanguard in their own remarkable story of Native American survivance and renewal. Indeed, the Kickapoo, as a people, have gone

³³³ Gerald Vizenor, *Manifest Manners: Narratives on Postindian Survivance* (Lincoln: University of Nebraska Press, 1999), vii.

to great lengths and have endured profound suffering and unremitting, rank exploitation to steadfastly defend their culture and preserve their traditional way of life. They even went so far as to move outside of the U.S. in substantial numbers in the 19th century to sustain their resistance.

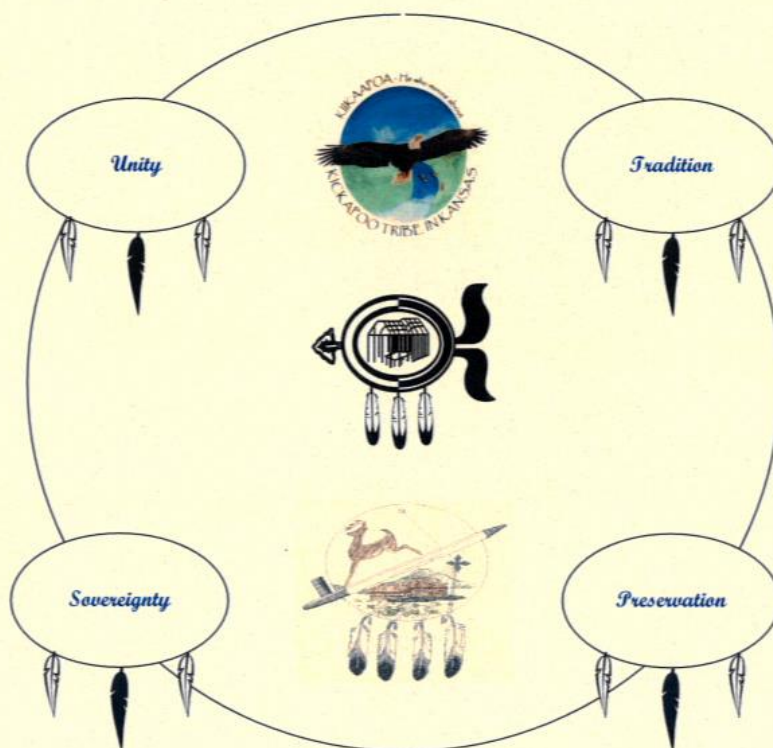
The Restoration of the Kickapoo Tribal Circle

On September 17, 2009, the first meeting of the Kickapoo Tribe of Oklahoma, the Kickapoo Tribe of Kansas, and the Kickapoo Traditional Tribe of Texas together since 1854 was held in McLoud, Oklahoma. It was organized to discuss common concerns of the Kickapoo people and to explore whether the different tribes might work together on possible solutions. Discussion topics included unresolved treaty issues, border crossing, trust lands, and other traditional matters. In addition, leaders of the Kickapoo Tribe of Kansas briefed other tribal leaders on their participation in the pending landmark class action lawsuit filed by the Native American Rights Fund initiated in 1996 by Elouise Cobell (Blackfeet) and other Native American plaintiffs against two departments of the U.S. government—the U.S. Departments of the Interior and Treasury—for gross mismanagement of Indian trust funds. This lawsuit is known as *Cobell v. Salazar*.³³⁴

³³⁴ “Kickapoos Historic Meeting,” *Indian Country Today Media Network*, September 27, 2009, accessed on April 14, 2015.

Sovereign

Kickapoo Nations



September 17, 2009

Chairman
Kickapoo Tribe
Of Kansas

Chairman
Kickapoo Tribe
Of Oklahoma

Chairman
Kickapoo Traditional
Tribe of Texas

On September 17, 2009, the Kickapoo Tribes of Kansas, Oklahoma and Texas came together to discuss joint tribal concerns. Source: <https://www.ktik-nsn.gov/>.

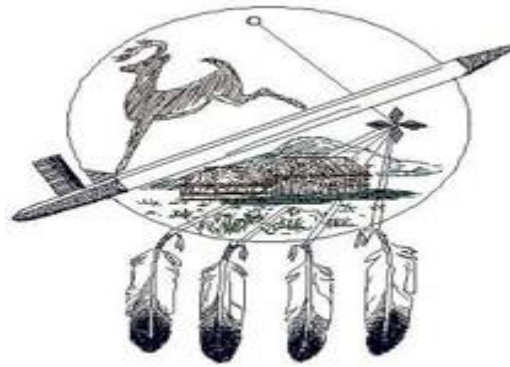


Kickapoos historic meeting

The first joint meeting of leaders of the Kickapoo Tribes of Kansas, Oklahoma, and Texas since 1854 in McLoud, Oklahoma on September 17, 2009. Souce: Indian Country Today Media Network, September 27, 2009.



On September 17, 2009, Kickapoo tribal leaders from reservations in three different states discussed treaty concerns, border crossing, land trust, and traditional issues. Source: Published on Indian Country Today Network on September 27, 2009.



The official seal adopted by the Kickapoo Traditional Tribe of Texas, when they finally secured recognition by the U.S. government. Source: www.kickapootexas.org.

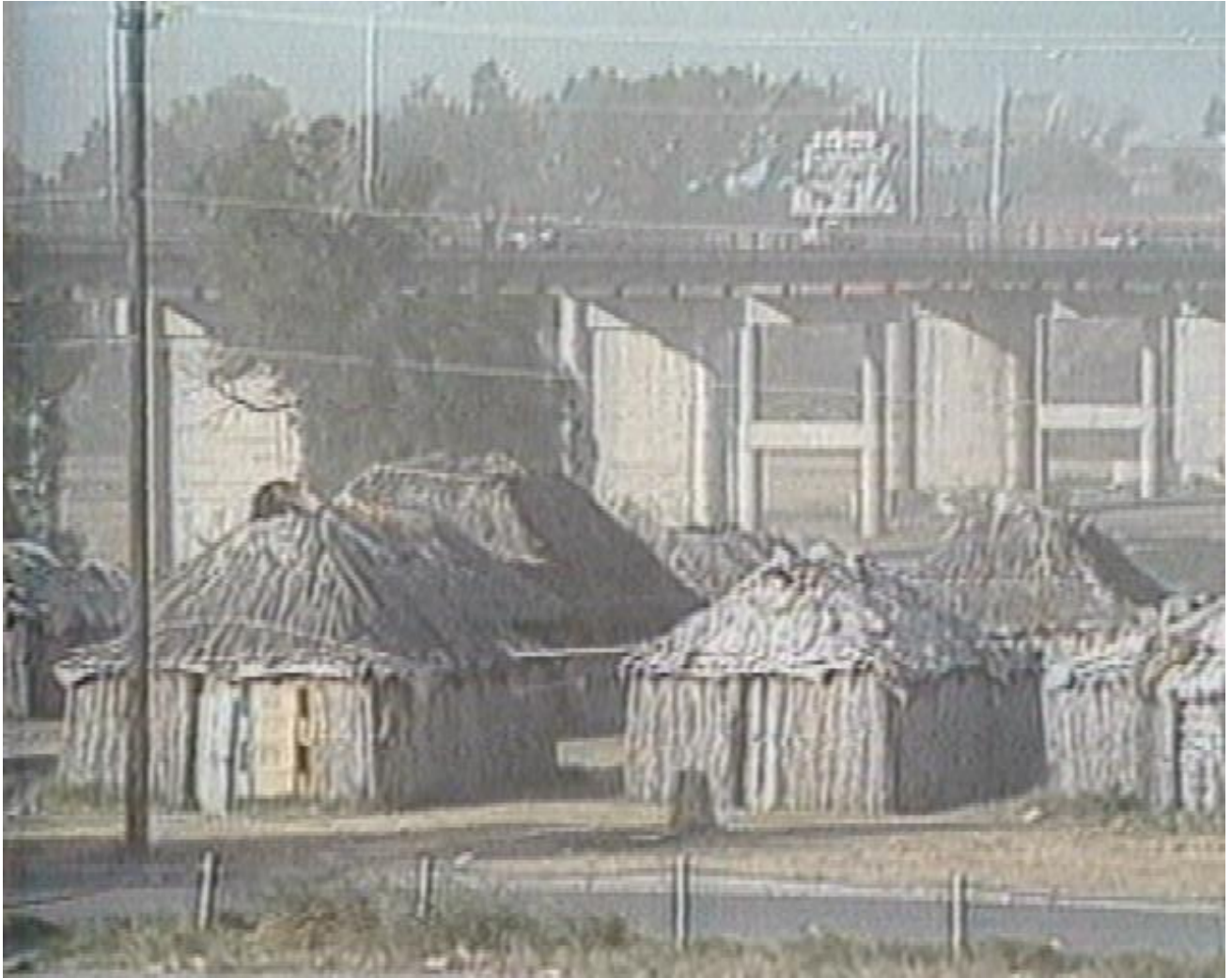
The foundation for this ground-breaking and hopeful intertribal meeting of Kickapoo was laid by the remarkable recovery of the Kickapoo Traditional Tribe of Texas. Since the late 1860s, some Kickapoo have lived in or near the village El Nacimiento Rancheria, composed of mostly traditional wikiups made of reed mats on 17,290 acres granted them by the Mexican government. This sizable community lives in the state of Coahuila, 25 miles northwest of Muzquiz and 125 miles southwest of Eagle Pass, Texas.

For nearly two centuries, these Kickapoo have lived by hunting, gathering, farming, and migrant farm labor. But in the 1940s, the fencing of lands by Mexican ranchers, overhunting, and drought led them to migrate annually to the United States to work as farm laborers. In March every year, they begin their annual farm work tour of the United States, beginning in south Texas, then following the harvest of assorted crops through the states of the Midwest and West. Then, they return to Mexico during the winter for their ceremonial season. It is important to note that they continue to practice their traditional religion, including a cycle which starts in early

spring and continues for several weeks. Many of their ceremonies take place in Nacimiento, and many Oklahoma Kickapoo travel to Mexico to participate.

Many tribal members have long used Eagle Pass, Texas, on the southern border as their base of operations when in the United States. As of 1978, they were in dire straits as noncitizens and struggling daily to survive in a makeshift village of traditional, reed-covered wikiups under the international bridge over the Rio Grande River, between Eagle Pass, Texas, and Piedras Negras, Mexico. Their average annual per capita income was \$3,000-\$4,000 and they were living in very unsanitary and stressful conditions. They relied upon a single outdoor privy without a septic tank and one public fountain as their only source of fresh water. They bathed in the Rio Grande River. Furthermore, the Texas Department of Health at that time reported “that alcoholism was rampant among the Texas Kickapoo, that 50 percent of them tested positive for tuberculosis and that there was a higher than average incidence of uncontrolled diabetes, cardiovascular disease and gastrointestinal problems. Babies especially suffer from upper respiratory infections, dehydration, and malnutrition.”³³⁵

³³⁵ “‘Lost’ Indian Tribe Seeks Recognition and a Home,” *New York Times*, December 26, 1981.



Reed huts of the 620-member band of the Texas Kickapoo living in Eagle Pass, Texas. Source: "Kickapoo Indians Call for Recognition of Grievances" NBC Nightly News, New York: NBC Universal, November 25, 1981. Accessed January 30, 2015, preview-archives.nbclearn.com/portal/site/k-12/browse/?cuecard=36062.

For decades, the Mexican/Texas Kickapoo, who chose dual residency, did not have clear legal status in either the United States or Mexico, and they received only limited assistance and government services from either country. Finally, in 1979, they sought redress from the United States government with a view to clarifying their U.S. citizenship status. Turning to NARF for legal assistance in sheer desperation, they wanted to secure their freedom and the right to move

freely between the United States and Mexico and to be granted trust land and government services in the Eagle Pass area.

“If we had our own land, we could build permanent homes,” said Kikai Hah, a withered 80-year-old grandmother. “As it is, we are forbidden to build good houses and our people are ill.”³³⁶ Toward that goal, tribal leaders lobbied and negotiated with officials of the U.S.

Departments of the Interior and State, the Mexican government, and the Inter-American Indian Institute with legal assistance from NARF attorneys and support from the officially-recognized Kickapoo tribes in Oklahoma and Kansas.

To his credit, the local congressman also came to their aid in 1982. U.S. Representative Abraham Kazen Jr. (D-TX) sponsored a bill to grant them full U.S. citizenship along with land for a very small reservation near Eagle Pass. Those combined efforts eventually resulted in the enactment of the Texas Band of Kickapoo Act (Public Law 97-429) in January 1983. That statute officially recognized the Kickapoo Traditional Tribe of Texas as a distinct, self-governing subgroup of the Kickapoo Tribe of Oklahoma. Federal recognition in the U.S. enabled the Kickapoo Traditional Tribe of Texas to become eligible for the first time for the full range of federal services and assistance which had been available to other tribes for decades, without having to travel to Oklahoma to apply.

In January 1985, the Kickapoo Trust Land Acquisition Committee, which was comprised of representatives of several local charitable organizations, church, and university groups and which had raised \$350,000, made the final payment to enable the tribe to purchase 125 acres of land along the Rio Grande River in Maverick County, Texas, about 8 miles south of Eagle

³³⁶ Mark Starr and Patricia Lochbaum, “The Tribe Without a Country,” *Newsweek*, March 22, 1982.

Pass.³³⁷ That marked the first privately funded reacquisition of Indian land in the U.S.³³⁸ Later that year, 143 members of the 620-member Kickapoo Traditional Tribe of Texas became U.S. citizens.³³⁹

³³⁷ Richard J. Meislin, "Land Offer Unsettles Tribe in Mexico," *New York Times*, January 14, 1985.

³³⁸ David Maraniss, "A New Age for the Kickapoo: Mexican Tribe Edges into Modern America," *Washington Post*, May 12, 1986.

³³⁹ "143 Renegade Kickapoos Accept U.S. Citizenship," *New York Times*, November 22, 1985.

Land Offer Unsettles Tribe in Mexico

By RICHARD J. MEISLIN Special to The New York Times

New York Times (1857-Current file); Jan 14, 1985; ProQuest Historical News
pg. A2

Land Offer Unsettles Tribe in Mexico

By RICHARD J. MEISLIN

Special to The New York Times

NACIMIENTO KICKAPOO, Mexico, Jan. 9 — In this small, gritty village 80 miles south of the border, where the loudest sound is the gurgling of a crystalline brook, the Texas band of Kickapoo Indians is keeping its secret winter traditions alive.

The mountain village, isolated by a bone-jarring 20-mile drive from the nearest paved road, is neither Mexican nor American in nature. Wood cooking fires burn in the small, oval huts made of saplings with straw mats on the floors. Water is drawn from efficient-looking concrete wells that dot the settlement. Pickup trucks are parked next to the oval huts of the 200-year-old tribe.

Similar but less scrupulously tended elements of native life can be found at the Kickapoo's decades-old summer home, on a plot of city land in Eagle Pass, Tex., alongside the bridge leading to Piedras Negras, Mexico.

In Eagle Pass, one drinking fountain provides water for a community of about 40 Indian huts, and the only toilets are in a trailer supplied by the city.

Viewed as an Eyesore

In Eagle Pass, the Kickapoo have stirred anger and concern from successive generations of city officials and residents, who have increasingly viewed the informal reservation as an eyesore and a health threat.

This week, charitable organizations made the last payment on a 125-acre, \$350,000 parcel of land intended to give the more than 600 Texas Kickapoo a permanent home in the United States. The land is along the Rio Grande about 8 miles south of Eagle Pass. But not all the Kickapoo welcome the new land, and some say they are wary that it will disrupt rather than stabilize their way of life.



The New York Times/Jan. 14, 1985
Nacimiento has long been the site of Texas Kickapoo winter rites.

The Eagle Pass city housing coordinator, Arturo Delgado, called the land purchase "a very historic moment" for the Kickapoo, but added that their skepticism was understandable. "After so long, you go down there and nothing has changed," he said. "It's been promises, promises, promises."

Mr. Delgado, who was a leader in raising the money to buy the land, said the plan could only be "a long-term solution," largely because "most of the tribe members say they're not going to move."

A 23-year-old Kickapoo who goes by the name of Jay is a lawyer's aide with Texas Rural Legal Aid in Eagle Pass. He said some residents of the Eagle Pass settlement were concerned about the increased distance of the new area from shopping, health centers and other services. Others, he said, worried

that the land could become a trap, because "sooner or later the Government is going to want them to stay here permanently, and that's going to be a problem."

The resettlement plan was part of a law approved by Congress in 1982. The legislation was intended to remove the Kickapoo from their legal no-man's land by permitting them to apply for United States citizenship and allowing them to receive Federal services.

But many of the Kickapoo say they fear that by moving to a permanent area in the United States and taking advantage of the citizenship offer, they could lose their tranquil sanctuary on the Mexican side of the border.

"Many people do not want citizenship," said Francisco Elisondo as he sat outside his hut in Nacimiento with his young son, repairing a bicycle. "They're not going to let us come here, they say."

Site of Secret Rites

That would be disastrous to the Kickapoo culture. Nacimiento, where outsiders seldom venture, has been the site of the Texas Kickapoo's secret winter rites for decades. For more than a century it has been one of the most stable elements of an American Indian culture that, pushed in the early 1800's from its 13 million acres of territory in northern Illinois and southern Wisconsin, has wandered farther and farther south rather than submit to outside domination.

It was the scattering of the tribe by a series of treaties and hostilities in the 19th century that led one band of the Indians to cross into Mexico, according to histories of the Kickapoo, whose name is spelled Kikapoo in Spanish.

The wandering continues, although it now has a pattern. Mr. Elisondo, who is 48 years old, said he spent about seven months a year here but traveled north

The establishment of a new small reservation near Eagle Pass, Texas, elicits mixed thoughts and emotions among traditional Kickapoo. Source: New York Times, January 14, 1985.



Members of the Kickapoo Traditional Tribe of Texas planting trees on the small parcel of land they acquired, in celebration of their official recognition by the U.S. government. Source: Published on Indian Country Today Media Network in Spring, 1983.

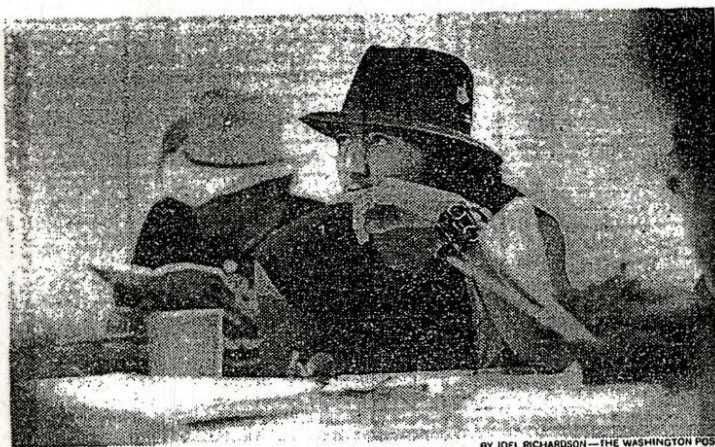
In 1986, the new property of the Kickapoo Traditional Tribe of Texas was dubbed Nuevo Nacimiento, or “New Birth.” The land was surveyed anew, water lines were installed, lots were assigned to different families, and a new cyclone fence was built around a small plot to become a cemetery. Soon thereafter, a vanguard of young tribal members like 19-year-old Rosendo Suke tentatively began to cross town to study at the local adult education center. When asked why he decided to go to school after living without it for 19 years, he replied, “Because I wanted to

learn. There are a lot of things to read when you go to a lot of places.”³⁴⁰

A New Age for the Kickapoo

By David Maraniss Washington Post Staff Writer

The Washington Post (1974-Current file); May 12, 1986; ProQuest Historical Newspapers The Washington Post (18 pg. A1



BY JOEL RICHARDSON—THE WASHINGTON POST

Rosendo Suke, 19, a Mexican Kickapoo, studies English in his “fine black hat.”

A New Age for the Kickapoo

Mexican Tribe Edges Into Modern America

By David Maraniss
Washington Post Staff Writer

EAGLE PASS, Tex.—The Mexican Kickapoo live in wooden shacks and traditional tribal dwellings, rounded huts of river cane, at the southern entrance to this city along the vega of the Rio Grande. Their village has no electricity and little plumbing. Most of the pickup trucks and cars parked along dirt pathways bear license plates from Colorado, one stop along the trail for these extraordinary travelers.

Above the village looms the International Bridge to Piedras Negras,

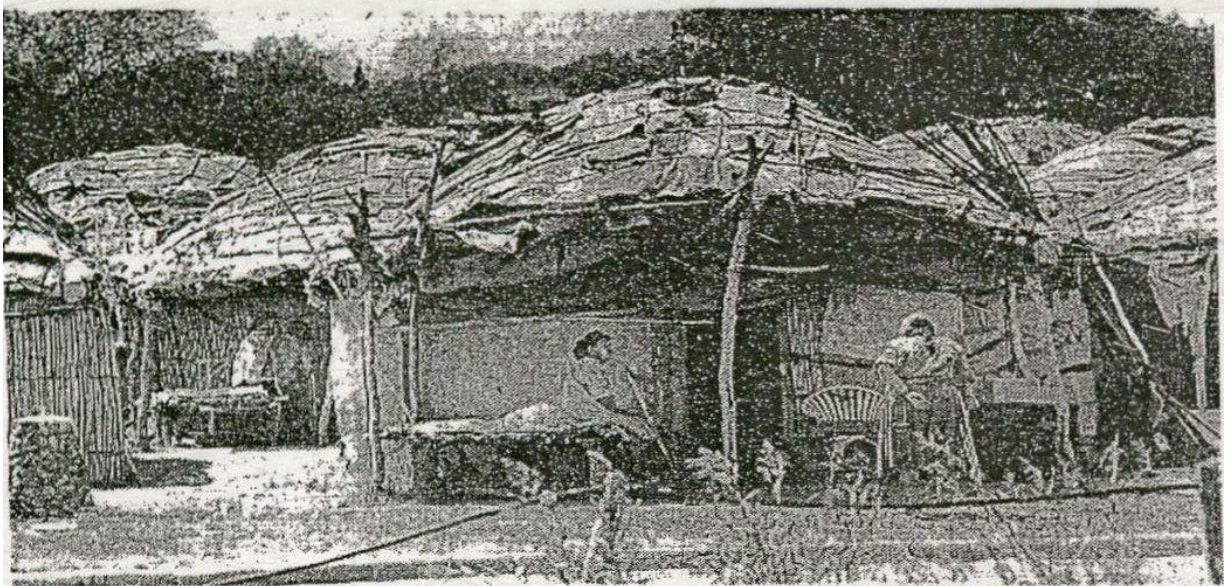
Mexico. To one side is a golf course with electric carts and sand traps, to another a downtown avenue lined with money-exchange windows and souvenir shops.

Every weekday morning since January, Rosendo Suke, 19, has donned his fine black hat and left the village for a trip across town to a community center where he and eight of his friends and relatives are learning to read and write in English. Kickapoo, an Algonquin dialect, is their first language, and in their second, Spanish, they are unschooled.

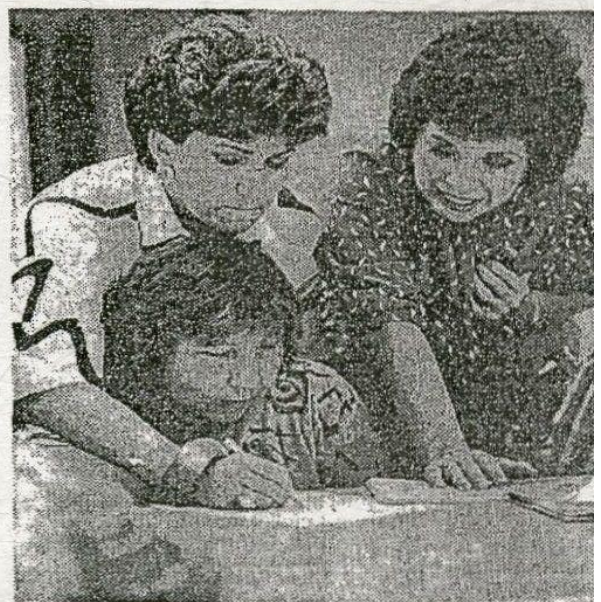
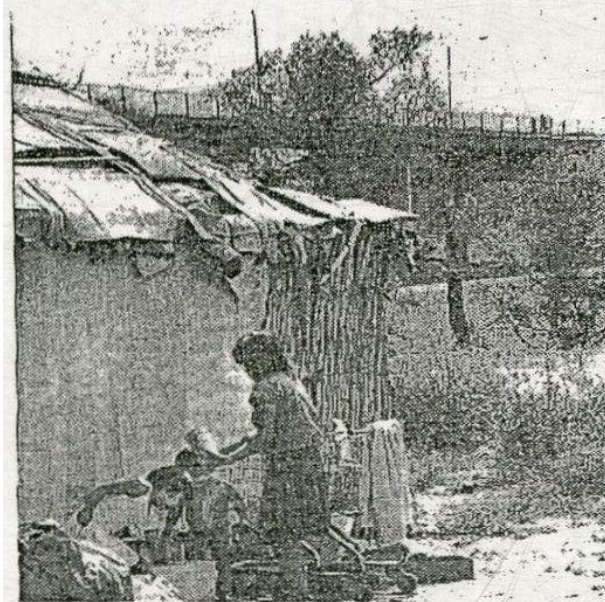
See KICKAPOO, A10, Col. 1

Kickapoo young people must navigate cultural divides and bridge traditional lifeways and contemporary demands. Source: Washington Post, May 12, 1986.

³⁴⁰ Maraniss, “A New Age.”



PHOTOS BY JOEL RICHARDSON—THE WASHINGTON POST
The Kickapoo village, made up of wooden shacks and traditional tribal dwellings, has no electricity and little plumbing.

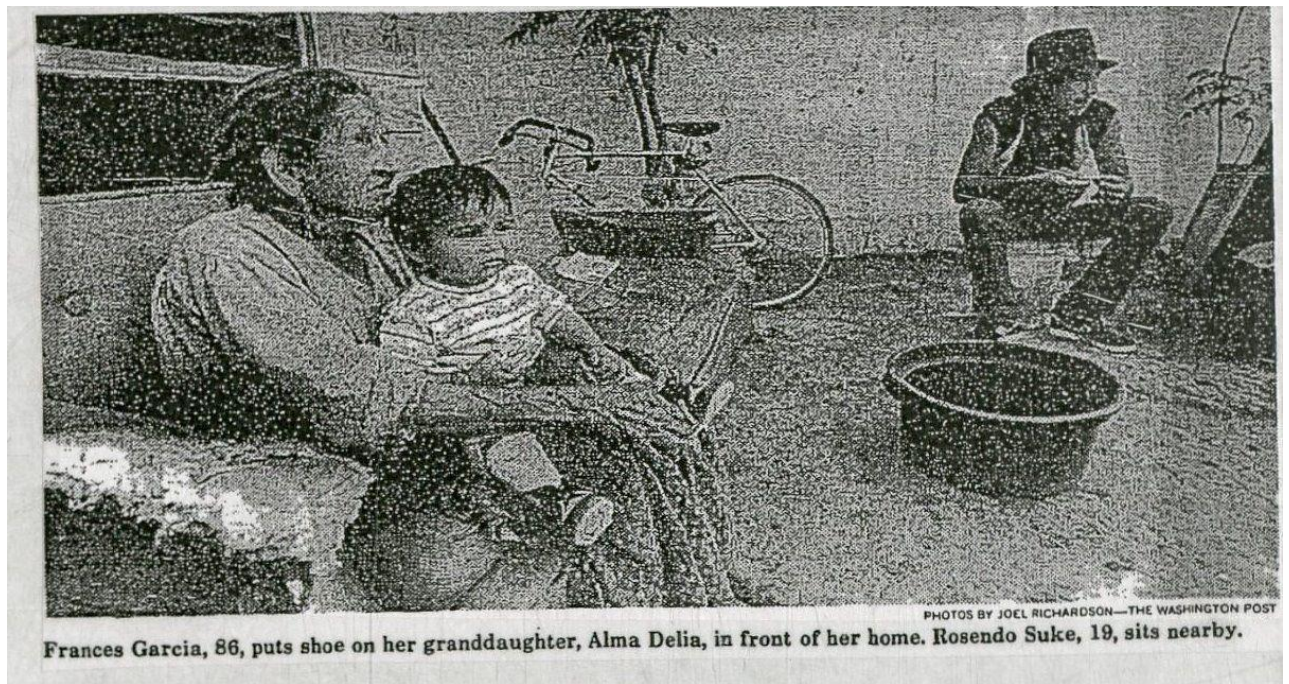


Bridge to Mexico looms above village. Maria Daniels, left, and Lila Sailors help Kickapoo woman with English lesson

Members of the Kickapoo Traditional Tribe of Texas adhere to cultural traditions, while striving to acquire non-Native education. Source: Washington Post, May 12, 1986.

Regardless, at the same time, older tribal members remained especially reluctant to move. “There is only one Nacimiento,” 86-year-old Frances Garcia said. “It is where our ancestors are buried. It is our sacred land. This new land can only be temporary. It doesn’t have

our ancestors. Some people think there will be a cemetery at this new land. They have a fence. The people will not use it. There's no sacred land. You can't just make it sacred with a fence. The Kickapoo world is a beautiful world. When we go to the mountain, we do not ask for what we want. We have what we want.”³⁴¹



Frances Garcia, 86, puts shoe on her granddaughter, Alma Delia, in front of her home. Rosendo Suke, 19, sits nearby. Source: Washington Post, May 12, 1986.

In 1989, the Kickapoo Traditional Tribe of Texas drafted their own tribal constitution and submitted it to the U.S. Secretary of the Interior, requesting federal recognition as a separate and distinct tribe. It was approved and remains in effect today. (See Appendix 4) Clearance was also secured for Members of the Kickapoo Tribe of Oklahoma who live on the reservation near Eagle

³⁴¹ Ibid.

Pass in Maverick County, Texas, to be eligible and to receive the housing, education, health, and other federal services they need locally.



Members of Kickapoo Traditional Tribe of Texas building a winter wikiup in Nacimientos, Coahuila, Mexico, 2008. Source: https://en.wikipedia.org/w/index.php?title=Kickapoo_Traditional_Tribe_of_Texas&oldid=882852941.

Finally, at the time that I am writing in 2019, President Donald Trump is waging an all-out political war with Congress over immigration policy and enforcement. The centerpiece of his campaign is to compel the construction of a wall to run virtually the length of the U.S.-Mexican border. Of course, how this divisive debate will play out is very uncertain, but it subjects the Kickapoo to the whims of federal policymakers once again. The Kickapoo Traditional Tribe of Texas is one of a handful of tribes whose reservation land abuts the Rio Grande River. As a consequence, they have the sovereign right as a federally recognized tribe to approve or disapprove arguably whether any portion of the proposed wall can cross their land. Undoubtedly,

Trump's harsh border crackdown is already adversely affecting the Kickapoo who have been crossing the southern border regularly for nearly two centuries primarily for cultural and family reasons.

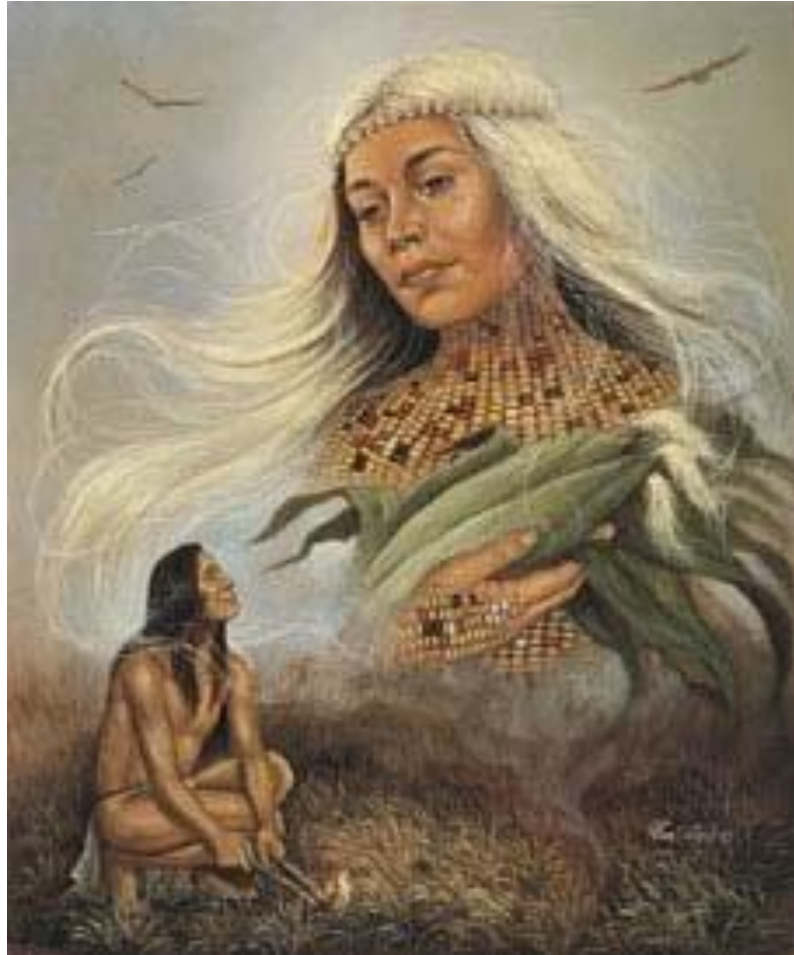
A Separate Peace: Surely Non-Natives Should Listen, Learn, and Do Better

Most Native Americans and non-Native Americans truthfully live in a parallel universe and have little or no contact with one another. Consequently, non-Indians have largely been left alone, generation after generation, to go about our business as usual and to follow our daily routines in mainstream American society with no understanding of, or regard for, shifting federal policies toward Indians. This carefully crafted reality has left non-Native Americans free to antiseptically think about Indigenous and non-Indigenous relations in passing and to uncritically embrace, celebrate, and perpetuate myths and unrealities, while compartmentalizing and pretty much ignoring inconvenient truths and conflicting, incomplete realities about our national history. Through it all, the Kickapoo people and their culture have not only survived, but they have achieved their own separate peace, unrelenting, unwavering, and undaunted. May it be so in the future.

[Sidebar: Kickapoo Cultural Sovereignty and Traditions: Past, Present, and Future]

Green Corn Festivals, or Green Corn Ceremonies, are both a celebration and religious ceremony, primarily practiced by the peoples of the Eastern Woodlands in the U.S., which includes Kickapoo, Iroquois, Illiniwek, and Potawatomi) and the Southeastern tribes of the U.S. such as the Creek, Cherokee, Seminole, and Yuchi. The ceremony typically occurs in the late summer because it is linked with the ripening of the corn crop. Marked with dancing, feasting, fasting, and religious observances, the ceremony commonly lasts three days. Activities varied from tribe to tribe in past practices, but the common thread, past and present, is that the corn is

not to be eaten until the Great Spirit has been given his proper thanks. During the gathering, tribal members give thanks for the corn, rain, sun, and a good harvest. Some tribes, in fact, believe that they were originally made from corn by the Great Spirit.



Corn Woman is the Native American Spirit Woman of Nourishment, and many Native Americans honor Her. She is the personification of maize and the fertility of the Earth. She is celebrated in the ceremonies of the Kickapoo and other tribes. Source: www.pinterest.com

The Green Corn Festival also serves as a time of religious renewal, with various spiritual ceremonies associated with it. During such ceremonies, some tribes hold council meetings wherein many of the previous year's minor problems or crimes are forgiven. Others also recognize this gathering as the time of year when youth come of age and babies are given their

names. Several tribes also incorporate ball games and tournaments in the gathering. Cleansing and purifying activities often occur, including cleaning out their wikiups, wigwams, longhouses or tipis, burning waste, and drinking emetics to purify the body. At the end of each day of festivals like these, feasts are held to celebrate the good harvest. Green Corn Festivals are still practiced today by many different tribal nations (including the Kickapoo) in accordance with their own respective cultural traditions.



The Green Corn Dance to celebrate the harvest. Source: Letters and Notes on the Manners, Customs, and Conditions of North American Indians, George Catlin, p. 188.

EPILOGUE: WHOSE NATIVE AMERICAN HISTORY?

According to my research on my family history, I am the great-great-grandson of adventurers, homesteaders, and yes, colonizers. Somewhat indirectly, my ancestors supplanted bands of the tribal nations of the Kickapoo and Potawatomi peoples. Those tribes, in turn, had supplanted the five tribal nations of the Illiniwek Confederacy, the Peoria, Cahokia, Kaskaskia, Michigamea, and Tamaroa, during the second half of the 18th century for whom the watersheds of the Vermilion and Wabash rivers had been homelands for centuries before they came in contact with Euro-American settlers.

James Mather Goold was the 5th generation of the Goold family who had first emigrated to the U.S. from Devonshire, England in 1673. He and his first wife, Phoebe Guyant, had decided to move away from the little town of Parma that they had helped establish in Jackson County, Michigan. To do so, they acquired military bounty land warrants from veterans of the War of 1812 and the Mexican War that, in turn, they exchanged at the U.S. government's Land Office in the 1850s to take title and lay claim on prairie land in the newly-formed Livingston County in east central Illinois. The original farmstead dissolved during the Civil War, when two of three brothers in their generation were serving in the Union Army in the Illinois Volunteer Infantry. One of my great uncles was gravely wounded in the Battle of Stones River, near Murfreesboro, Tennessee, and died a few days thereafter. The other was badly wounded in the Battle of Champion's Hill, near Vicksburg, Mississippi, and died a few years later in the Soldiers and Sailor's Home in Dayton, Ohio. That left it to my great grandparents and grandparents, along with their siblings, to re-establish a family farm in east central Illinois, just a few miles from the ill-fated first farmstead. My parents, aunts, uncles, and siblings have been farming the same land in that county since 1904.

That has left me to ponder a foundational question: What, then, is Native American history and how does it intersect with non-Native history? There have been times and places throughout my life when this theoretical question has been in the back of my mind and/or at the front of my conscience. It has always been with me at some level of awareness from boyhood, when my father and uncle first showed me a handful of projectile points and a stone ball that had turned up on the family farm and nearby woods.

These artifacts were identified, dated, and evaluated by expert resident archaeologists, collections managers, and anthropologists with the Cultural Resources Center of the Smithsonian's National Museum of the American Indian in Suitland, Maryland, as well as those with the Illinois State Archaeological Survey at the University of Illinois in Champaign-Urbana, Illinois in 2010. They include:

- 6000-4000 B.C. stemmed spear point from Archaic Period;
- 2000 B.C.-A.D. 400 stemmed, dart/spear point, though not an arrowhead, from the late Archaic/early Woodland period. Bows and arrows were not used in eastern North America until about A.D. 600. Before that hunters used darts or spears often with an atlatl or spear thrower. Typically, spear and dart points are larger, heavier, and more rugged in structure than arrow points. Because of their bulk, they were more likely to withstand the force of heavier impacts and glancing or misdirected blows. These heavier points were either hafted directly to stout wooden poles with leather or plant-fiber cordage or tendon sinew; or they were lashed to small dart shafts which were then inserted into a socket at the end of a wooden spear handle. Spears or dart-spears were propelled either by a direct, forceful thrust, a javelin-like throw, or they were hurled with the aid of an atlatl, a handle-like device that served as an extension of the arm;

- A.D. 1000-1600 triangular arrowhead (Madison-type) from Woodland-Mississippian period;
- A.D. 1000-1600 triangular arrowhead, non-diagnostic type, from Woodland-Mississippian period;
- A.D. 500-1500 spherical, granitic stone resembles almost perfect spherical, granitic stones of different sizes from Late Prehistoric period sites in the Chicago area, which were apparently used as hammer stones to work flint and occasionally used to grind pigments.

I came of age during the 1960s and the turmoil of those times, which also fueled conflict within my immediate family. I knew that I was not cut out for agribusiness farming, so I headed to Oberlin College in Ohio, where I focused upon government and history.

Upon graduation, I began a public service career first in state government. A couple of years thereafter, I moved to the Washington, D.C. area to pursue my growing interest in nonviolent problem-solving, conflict mediation, and human rights advocacy, which together always remained my “North Star” throughout nearly thirty years of professional public service in the U.S. Congress.

I moved to Montana in the summer of 2011 to find greater balance in all aspects of my life, including returning to my long-deferred interest in cultural history and especially Native American cultural history. A significant factor in relocating to Bozeman was my desire to study with and learn from Native American faculty and students, anticipating that I would learn a great deal from them inside and outside of an academic setting. I certainly have not been disappointed in this regard.

In my retirement, I returned to the classroom after three decades as a novice graduate student in Native American Studies. I was quickly jarred in one of my first classes by an arrogant classmate asking provocatively “whether Indians still received government checks,” a personal assumption he had been teaching in his secondary school history classroom for years. Then, there was one of Vine Deloria, Jr.’s many penetrating examples in his writing also eating at me, too, regarding Elliot West, a widely-read historian of the American West whose books are widely assigned in MSU history classes, having “argued that the Cheyenne are heavily to blame for the disappearance of the buffalo from the Great Plains.”³⁴²

Where then does one begin to “re-search” for answers to that nagging foundational question I posed earlier? All that is clear, if one spends any time in central Illinois now, is that Indigenous peoples have been virtually erased and rendered invisible to mainstream society and local history. Still, I recall from my youth and throughout my life that I have always met with befuddled faces and blank expressions whenever I have asked questions and otherwise sought information about the peoples who lived on the land before my ancestors, the people for whom those artifacts were fundamental to their daily lives. I eventually uncovered very basic information about some of those uprooted tribal cultures and, where the Kickapoo are concerned, I came to see them as inspirational, resilient cultures today, despite having been forcibly relocated to Kansas, Oklahoma, Texas, and Mexico. I want to continue to learn much more about them, reach out in respectful ways, and pay backward, in some admittedly very small way, for the profound injustices and hardship they have endured as Indigenous peoples.

Undeniably, there have always existed substantial differences between Indigenous and Western ontology and epistemology respectively. Yet, history remains one of the university

³⁴² Vine Deloria, Jr., “Marginal and Submarginal,” in *Indigenizing the Academy*, eds. Devon Abbott Mihesuah and Angela Cavender Wilson (Lincoln: University of Nebraska Press, 2004), 22.

disciplines most resistant to “Other” worldviews and research methodologies, which attach greater importance to place, oral traditions, and relationality than to timelines, written records, documents, and human egotism.

I welcome the layered, postmodern critique and its on-going challenge to exclusive, dominant claims of intrinsically superior Euro-American-centric knowledge, disingenuous research biases, and privileged presumptions about whose history matters.

This skewed and very pinched account of human history persists, replete with harmful stereotypes and negative value judgments about different cultures. Peter Nabokov argues persuasively for a much-broader, more discerning metaphorical “forest of different types of histories” that is long overdue, emanating from various, different cultures in their own voices for diverse reasons. To invert Frederick Jackson Turner’s frontier theory, it is time to hear from people on the other side of the frontier.³⁴³ Certainly the so-called “New World” wasn’t that at all for the Indigenous peoples who had lived in the Western Hemisphere for thousands of years, before Christopher Columbus came ashore. Most assuredly, the profound human suffering, shame and injustice associated with Euro-American colonization, dispossession, and settlement didn’t end when President Obama signed an official apology to Native Americans without a peep, on behalf of the U.S. government on December 19, 2009, which had been buried in the fine print of a more than 400 page, \$780 billion defense spending bill.

Historical practices are culture-specific, so there are as many Native American tribal histories as there are tribal nations. Yet, since the invention of the printing press in 1440 until very recently, white Eurocentric men and their American descendants have pretty much had a

³⁴³ Peter Nabokov, *A Forest of Time: American Indian Ways of History* (Cambridge: Cambridge University Press, 2002), 15-16.

free hand in exclusively recording, writing, and prioritizing world history. In fact, as recently as 1995, Donald Grinde Jr., a Yamasee historian wrote:

According to modern historical standards, research historians of the American Indian need not know the language, culture, and values of the society they study. Often historians of the American Indian claim that their ignorance makes for objectivity. Some academic historians in positions of power maintain that today's surviving American Indian groups have little or no culture, language, and spirituality left. Moreover, these scholars maintain that what does survive among contemporary American Indians is so distorted that one need not be unduly concerned about communicating with contemporary Indian groups when studying them.³⁴⁴

This unaccountability and (mis)representation must stop. Surely, we can do better. In the postcolonial discourse, Native American elders and storytellers should be in the lead in determining what they are comfortable sharing from their traditional knowledge beyond the confines of their respective tribal cultures. Native American cross-cultural scholars and researchers with strong relationships to their tribal cultures and communities—"border-walkers" as one of my friends calls herself—can be instrumental within academic circles in compiling oral histories and plying other Indigenous self-in-relation methodologies.³⁴⁵ They are more than up to the challenge of demonstrating, convincing, and compelling, if necessary, the academy still dominated by Euro-American-centric historians to finally let the subalterns speak and be heard in sharing their own histories, according to their own epistemologies.³⁴⁶ This fact is underscored by the humble Dakota storyteller Eli Taylor when he implores Waziyatawin Angela Wilson—and us, as readers—to remember this in his very first recorded historical narrative, done in the

³⁴⁴ Donald A. Grinde Jr., "Historical Narratives of Nationhood and the Semiotic Construction of Social Identity: A Native American Perspective," in Michael K. Green, ed., *Issues in Native American Cultural Identity* (New York: Peter Lang, 1995), 203.

³⁴⁵ Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations, and Contexts* (Toronto: University of Toronto Press, 2009), 14.

³⁴⁶ Gayatri Chakravorty Spivak, "Can the Subaltern Speak?" in *Marxism and the Interpretation of Culture*, eds. C. Nelson and L. Grosberg (Basingstroke: Macmillan Education, 1988), 78.

context of his tribal culture and Dakota language and later translated and presented bilingually.³⁴⁷

It is about the spiritual origins of the Dakota people that were derived from the story of a group of Dakota warriors who went searching for the end of the land and encountered a spiritual being who gave them knowledge and their unique tribal identity.

It also provides a great window, like the whole book, on how much is currently missing and how incomplete are the existing Anglicized history books about the Dakota people. These increasingly apparent inadequacies of much of the existing written history about the Dakota people, in this instance, prompted me to ask Wilson during a classroom Skype session, can/should non-Indigenous scholars even be attempting to do or write decolonized tribal histories.³⁴⁸ She replied, “Only under the direction/supervision of pertinent tribal elder(s) and scholar(s).”³⁴⁹

I continue to wrestle with questions about what role or roles supportive non-Native scholars and researchers should assume in “researching back” at this juncture on Native American history, to use Linda Tuhiwai Smith’s apt terminology.³⁵⁰ Personally, I don’t subscribe to the certitude of Western ontology and the scientific objectivity that is overstated in the dominant epistemology that underpin the positivist and post-positivist qualitative research paradigms. I am also uncomfortable with the continued exclusivity and rigid requirements for written evidence and documentation in omnipresent Euro-American-centric history. Different worldviews can and should be allowed to stand alongside and inform one another in the quest for expanded human knowledge and deeper understanding of life in all forms and manifestations.

³⁴⁷ Waziyatawin Angela Wilson, *Remember This! Dakota Decolonization and the Eli Taylor Narratives* (Lincoln: University of Nebraska Press, 2005), 28.

³⁴⁸ Question and answer portion of live graduate school class interview via Skype with Waziyatawin Angela Wilson, February 22, 2012.

³⁴⁹ Ibid.

³⁵⁰ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, (New York: Zed Books, 1999), 7-8, 58-9.

Accordingly, I have adopted a somewhat eclectic approach in conducting my research and in writing this illustrative book, mixing objectivity and subjectivity rather than juxtaposing them. It is intended as a tentative demonstration project of sorts to test the limits of mainstream historiography, as customarily applied to Native American history. I seek to inject much more precolonial historicity into the preservation and writing of distinct tribal histories, which are to be anchored in their shared Indigenous epistemology, yet respectful and reflective of different tribal cultures as revealed in their defining stories, songs, prayers, and ceremonies. Equally important, this book will hopefully function as a cross-cultural bridge, if you will, a way station on the road toward a much more complete, robust, and interdisciplinary approach to understanding, respecting, and embracing all that constitutes Native American histories in all their forms.

Herein, I have sought to position my work in alliance with and in support of Native American scholars and students in this field, while also demonstrating what I deem, on my part, to be appropriate and essential cross-cultural respect, deference, and humility for all that I do not and cannot know. Furthermore, I agree wholeheartedly with Indigenous scholar Graham Smith's observation:

A decolonizing approach, built upon critical theory, is particularly effective in analyzing power differences between groups; that it provides hope for transformation; that there is a role for both structural change and personal agency in resistance; and that Habermas' notion of finding victories in small struggles resists a purist tendency towards an all-or-nothing approach to social transformation.³⁵¹

At juncture in my continuing education and research, I also sense both the palpable need for and possibly unforeseen benefits of pursuing the deconstruction of the historical texts of many of the incomplete tribal histories written by non-Indigenous, Western-trained authors that

³⁵¹ Kovach, *Indigenous Methodologies*, 80.

dominate the shelves of university, college, and public libraries across the U.S. and far beyond. At a minimum, they need to be counterbalanced with a steady stream of decolonized tribal histories in coming years.

More Native American tribes, elders, and scholars deserve strong support to finally be empowered to tell their own histories in their own voices and forms. Toward that end, this book, my on-going research, and that of other non-Natives will hopefully contribute in some small way to creating an enabling environment in the U.S. for building bridges of improved scholarship, understanding, and mutual respect between Indigenous and non-Indigenous peoples inside and outside of our schools, universities and councils of government. As an Indigenous scholar, Margaret Kovach is pointing us in the right direction and underscoring the crucial role to be played (or not) by historians:

Knowing our history, the politics of our oppression, and the desire for reclamation, it is difficult to imagine an Indigenous methodology at this time, without a decolonizing motivation. Such a perspective is functional. It can act as a bridge between two worlds, for it is a terrain where the Western academy best understands what we are saying. Not all those in the academy necessarily agree with such an Indigenous stance, but the decolonizing discourse is one with which both cultures are familiar. It is here that we are able to access some of the strongest allied theoretical critiques. Non-Indigenous critical theorists are strong allies for Indigenous methodologies. They can assist in making space for Indigenous methods (protocols, ethics, data collection processes), but also for the epistemic shift from a Western paradigm that Indigenous methodologies bring. In this effort, critical theorists will be asked to consider a worldview that holds beliefs about power, where it comes from, and how it is manifested, which will, at times, align with Western thought and at other times not. While this may pose a challenge, it is likely that even if critical theorists cannot fully embrace Indigenous methodologies, they would argue that doing so can be a legitimate option.³⁵²

In the course of my NAS studies so far, I have also grown to believe that decolonized tribal histories, as one manifestation of a truly more honest and complete “forest of histories,” may prove to be an important missing link to greater truth, reconciliation, and healing within

³⁵² Ibid., 86.

tribal communities and in relationships between Indigenous and non-Indigenous peoples. As Eduardo Duran points out, Native Americans individually and collectively must deal constantly with soul wounds from having incurred profound pain and suffering that have resulted from policies of genocide, colonization, forced allotment and assimilation, and termination.³⁵³

Intergenerational post-traumatic stress disorder is real for Native Americans living on and off the reservations. It is comparable to that suffered by the Jews, whose relatives perished in the gas chambers during the Holocaust in World War II. But the nightmare goes on for many Native Americans, unacknowledged by most of American mainstream society. Concurrently, I also strongly suspect that unvetted collective guilt is commonly shared among non-indigenous peoples in the U.S. and abroad, even though much of the postcolonial discourse seemingly downplays coming to terms with that side of the equation. Any prospects for healing of the soul wounds and internalized oppression of the colonized and the related guilt complex of many dominant colonizers must start in a full airing of the socio-cultural context of that which has caused the intergenerational PTSD.

As Luther Standing Bear wrote in 1933:

Irreparable damage has been done by white writers who discredit the Indian. Books have been written of the Native American, so distorting his true nature that he scarcely resembles the real man; his faults have been magnified and his virtues minimized; his wars, and his battles, which, if successful, the white man chooses to call “massacres,” have been told and retold, but little attention has been given to his philosophy and ideals.³⁵⁴

Some inroads have been made since then, led by Indigenous scholars pressing for decolonization of broad interdisciplinary scope. But where are the decolonized tribal histories in

³⁵³ Bonnie and Eduardo Duran, *Native American Postcolonial Psychology* (Albany: State University of New York Press, 1995), 24.

³⁵⁴ Stevenson, “Decolonizing Tribal Histories,” 5.

actuality today, as a cleansing manifestation of “writing back” to the Euro-American-centric history establishment? Theoretically, they hold great potential for mutually beneficial healing for Native Americans and non-Natives because of the more complete and honest history to be expressed. They could be useful catalysts for the use of truth and reconciliation processes and the greater healing that often ensues. But honest history is still very hard to spot from the “Other” side of the frontier, and the always advancing dominant side of the relationship remains in functional denial.

Of course, none of this will be possible without close, cross-cultural direction, guidance, and supervision. It should only be attempted when strictly subject to the will, completely informed consent, and final approval of tribal elders, councils, and communities who wish to be involved. In some very small way, the proposed combination of methodologies will hopefully add to the inspiring, solid foundation of cross-cultural scholarship already laid principally by path-breaking Indigenous intellectuals and scholars like Vine Deloria, Jr., Edward Said, Linda Tuhiwai Smith, Waziyatawin Angela Wilson, Robert Allen Warrior, Winona Lu-Ann Stevenson, Eduardo Duran, and Taiaiake Alfred, and skillfully augmented by non-Indigenous scholars such as Peter Nabokov. From my conceptualization of this book, I have been informed by and guided primarily by Dr. Walter Fleming, scholar, author, and Member of the Kickapoo Tribe of Kansas and Chair of the Native American Studies Department at MSU.

ILLUSTRATIVE GUIDE FOR CROSS-CULTURAL SHARING

Compiling materials and writing any history is never complete, never over. Every culture is unique, as is every person—past, present, and future. Where tribal histories are concerned and cross-cultural inquiry is involved, we have hardly begun to consider, hear, or read anything from the Kickapoo or other tribal nations in their own voices.

For other non-Native scholars and students, I suggest the following steps in the interim to more fully develop the way station embodied in this book, which will remain under construction for the foreseeable future:

- Reach out, introduce yourself, explain why you want to do the research project, and begin to build respectful relationships with tribal elders and historians among the Montana tribes and those of the Kickapoo and Illinois tribes in the Midwest;
- Read, review, and evaluate underpinning methodologies of the state-funded tribal histories compiled soon after the Indian Education for All Act was enacted in Montana in 1972 and in response to appeal/collective query from public school teachers about what to teach. This is Western-style archival research;
- Ask tribal archivists on respective reservations about any oral or written tribal histories they may have or whether there are related sources, and study pertinent methodologies and methods used;
- Conduct a thorough, broader literature review about the on-going debate over the nature, value, reliability, and forms of tribal oral histories, especially from Native American perspectives. As an example, consider the question, what is the historiography associated the “New History” ... talk with Mary Murphy at the Montana State University campus and consult the work of Patty Limerick at the Center of the American West at the

University of Colorado to learn about the new treatment of Native American history of which they are aware;

- Identify at least one prototypical mainstream Western tribal history and underlying dominant epistemology and methodology to be deconstructed following the Derrida method³⁵⁵, and decolonized using methods by Smith³⁵⁶, Wilson³⁵⁷, Stevenson³⁵⁸, and Kovach³⁵⁹. Two good examples of this technique are A.M. Gibson's *The Kickapoos: Lords of the Middle Border*, which is one of more than 200 books in "The Civilization of the American Indian" series published by the University of Oklahoma Press in 1963 and *The Mexican Kickapoo Indians* by Felipe A. Latorre and Dolores L. Latorre, which is one of several books in "The Texas Pan American" series published by the University of Texas in 1976;
- Review Linda Tuhiwai Smith's "Twenty-Five Indigenous Projects" in her book *Decolonizing Methodologies*, Lu-Ann Stevenson's unpublished doctoral dissertation on decolonizing tribal histories, and Waziyatawin Angela Wilson's book *Remember This!* to determine the key elements they identify and use for decolonizing purposes. These strategies should be applied as-is or adapted for your specific research framework;
- Identify best available example(s) of decolonized tribal histories. Reflect, clarify meanings of foundational terminology, and construct, incorporating methodologies and

³⁵⁵ Jacques Derrida, *Of Grammatology* (Baltimore: Johns Hopkins University Press, 1974).

³⁵⁶ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (New York: Zed Books, 1999).

³⁵⁷ Waziyatawin Angela Wilson, *Remember This! Dakota Decolonization and the Eli Taylor Narratives* (Lincoln: University of Nebraska Press, 2005).

³⁵⁸ Winona Lu-Ann Stevenson, "Decolonizing Tribal Histories," unpublished doctoral dissertation (Berkeley: University of California, 2000).

³⁵⁹ Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations, and Contexts* (Toronto: University of Toronto Press, 2009).

methods identified from sources in the preceding bullet to identify critical building blocks of what could be a model decolonized tribal history;

- Consult the *Atlas of Great Lakes Indian History*, edited by Helen Hornbeck Tanner, cartography by Miklos Pinther, and published for the Newberry Library by the University of Oklahoma Press in 1987 to learn about methods for decolonized mapping in one region of the U.S.;
- Access creation stories, if possible, and other traditional knowledge to identify, visit, and walk ancestral lands of the Montana tribes and those of the Kickapoo and Illinois tribes in the Midwest with tribal elders and leaders and listen to their collective memories of the land. There is no substitute or shortcuts for visiting the landscapes where tribal history happened with those who experienced it and carry its memories;
- Conduct Western-style archival research for documentary evidence originally used to argue tribal land claims in court, before the Indian Claims Commission, etc.;
- Look to build working relationship(s) with tribal partner(s) with pertinent tribal language skills and kinship links in order to contextualize oral traditions in each accordance with each tribe's culture;
- Over time, look to develop relationships of trust, respect, and reciprocity with tribal elders to do open-ended oral history recordings. This is primarily fieldwork;
- Consider use of oral history interviews of tribal elders and/or historians recorded in tribal languages by other people that reside in other public and private collections;
- Do a case study of one or more tribes and their cultural/historical traditions. Ask questions such as how to overcome gaps in collective memory within the pertinent tribe(s), using internal tribal methods;

- Ask and determine ways in which tribes resolved intertribal wars and conflicts using traditional knowledge in precolonial contexts;
- Conduct literature searches to determine if and when proven truth and reconciliation processes have ever been effectively utilized to air different histories from different sides of the proverbial frontier, promote healing from Native American historical trauma and PTSD, and build a basis for stronger, healthier Indigenous-non-Indigenous relationships for the future. A resource for this is the body of work of the 2011 Indian Residential Schools Truth and Reconciliation Commission in Canada; and
- Conduct literature search on post-conflict precedents, different approaches, and best practices after the military defeat of Nazi Germany and Imperial Japan in World War II, Vietnam, South Africa, the Balkans, and Rwanda.

APPENDIX 1

HENRY MIES 1924 SPEECH

BULLETIN NO. 1 OF The Livingston County Historical Association - March 5, 1925

Published and Distributed by the KIWANIS CLUB OF PONTIAC

Foreword

At a meeting of the Kiwanis Club of Pontiac in November the following paper on the Indian life, habits, and history of this region was read by Kiwanian Henry Mies. Mr. Mies has long been a collector of Indian relics and a student of Indian lore. He has a large and interesting collection of relics found in various parts of this county. The members of Kiwanis were so impressed with the paper that it resulted in bringing about definite action on the formation of a Livingston County Historical Society. A committee consisting of Henry Mies, Grant Armstrong, D. S. Myers, Jr., J. B. Grotevant and W. W. McCulloch was appointed to take the initial steps. Rev. John H. Ryan was added to the committee at their first meeting, the other members feeling that no other man in the county is better versed in its early history. The above committee has secured a charter and at the last meeting of the board of Supervisors, a room in the Court House was provided as a museum in which to keep all interesting historical material that may be contributed. Anyone who has historic relics or who knows of any that might be added to the collection should correspond with some member of the above committee or with the supervisor of his township. We feel sure there are many who will be glad to co-operate in making our County collection one of real historic value.

Early Indian History of Livingston County

Not a great deal of Indian history can be written when confined to a territory as small as Livingston County, yet the little that can be written should not be left unrecorded. Someday the

student, the Investigator, the collector will be asking questions, seeking information, wondering what the Indian has left to enrich our history.

It, perhaps, will fall to the collector to give a classification of the Indian's work in the stone age. I will try to present some facts regarding our local Indians based on years of experience and research, having before me a vast array of material on the subject. I am greatly indebted to the many who have given me specimens found by them in various localities in Livingston County, and to the others who have shown me specimens from their own private collections.

Many of these specimens are of late origin having come from the Illini and Kickapoo tribes who roamed this section up to 1832. Everywhere along our streams, over our great moraines, and uplands he has left his barb. The many things fashioned by the Indian cause even the collector to wonder. Here too is found the barb of extreme age, even the chemist cannot calculate the time it took to oxidize the stone, giving the surface this glaze and luster, this covering of patina. No doubt that superior race of men, the Illini, followed our beautiful Vermillion and aged before that, others found our open prairie a great hunting ground.

It is almost within the memory of men of today that much of this information could have been recorded. Less than 100 years ago these streams and uplands were theirs. It is within the memory of many of our pioneers who cleared the land and brought to the collector this wonderful array of handiwork, buried history of the past. Less than 100 years ago Indians cultivated corn in this County, yet the little crib (the Kickapoo storehouse) is forgotten. Corn Grove in Section 28. Chatsworth Township, where it once stood is now a cultivated field.

It has been the writer's experience and pleasure to find these barbs by the hundred, and even some handiwork of the Mound Builder's race. He has marveled, he was enacted, at the skill

and patience the workmen had, using stone against stone, fashioning weapons which were so necessary for his protection and existence. His work in the higher arts, his ornaments, his emblems, his charms. So enduring is most of it made, that it has withstood the raves of the elements and of time. Some of his work is checked by the many prairie fires that have swept our uplands and some has crumbled. Even in the short space of 90 years the Indian is forgotten.

“Gone all thy world O Arrow Head,
 Gone are the hands that made thee so,
 Gone is the warrior and his bow,
 Gone is the quarry and the oak,
 Gone are the wild red forest folk,
 Like their own bolts forever sped,
 Gone all thy world O Arrow Head.”

Not a massacre occurred in the County, not even a battlefield has been found or recorded. Our Indians remained peaceable in the unrest of 1831-32, the Sauk and Black Hawk War. Not until a race has passed from the face of the earth will investigations be made. Such is history. I have waited for an opportune time to present some facts regarding our first inhabitants. There is a deeper interest being shown at this time, and on the pages of our history their story can be told as it should be. It is only due to the coming generations that the story should be told with the object lessons and the ideals of a race before them. As a collector, as an investigator, in my den I can see the connecting link of his handiwork when I compare our manufactured tools of iron and steel with his of stone. I can see they played a part. Theirs were the forerunner of a larger and better civilization. What a history we could have had, had our early pioneers written their story when they lived among the red men. I could not help being impressed as the plow exposed for me the barb, or lap anvil, the mortar dish, and the battle-ax. I have plowed the virgin soil within the city limits of Chicago and exposed the war point from its hidden past. I plowed up the two bitted stone ax so old that we wonder who fashioned it so. From these and many, many others

that I have found I have, as best I could, woven their story. In classifying their work, I feel it would be of interest to you to know how this information is gleaned, and the naming of their handiwork, giving terms that are so familiar to us to-day. These had their origin in the stone age. In our patent office at Washington can be found some of their exact duplicates and on these patents are granted to-day.

The classification of their work is as follows: 1st shape, 2nd size, 3rd material. 4th color, 5th condition, 6th age, 7th workmanship, 8th locality. 9th the date found and 10th comments. This opens up a field almost unbelievable, but such it should, to obtain reliable records of their handiwork. It then can be indexed and scored. The above points are subdivided. Under workmanship we have five divisions, work in flaked and chipped objects, such as the arrowhead, the hunting spear, the knives, drills, scrapers, and chisels. The next is work in pecked objects such as the stone hammer, slugs, axes, celts, and hatchets or tomahawks. The next is work in polished objects, such as slate ornaments. The next is molded work, such as pottery. Then comes the work in copper which is hammered ware.

In use they are divided: Weapons of warfare and chase; implements of agriculture, work in ornaments, work in emblems and ceremonials in religion; charms, pipes, plumb bobs, banner stones, gorgets, amulets, discoids, paint cups, and others. Some are classed as artifacts and problematics, their use to us unknown. Under the head of warfare and chase the objects used were the grooved ax, grooved stone hammer slugs, the un-grooved celt, or tomahawk, skinning knives. And daggers. The war club, set with points, had somewhat passed out of use belonging more to the Paleolithic period of the stone age. Still the war points are quite numerous. Evidence of a change in the method of warfare. The weapons of range, those that would carry a distance are the lance head, the hunting spear, and the bow and arrows. In the miscellaneous type we have

the free hand skinning knife, the notched knife, the beveled knife, the beveled or rotary arrow, scrapers of many kinds and shapes, and chisels of many designs such as the freehand, beveled, notched, and stemmed, also many types of drills. Stone pencils for picture writing and hieroglyphics, fluted arrows, some gouged, both in flaked and pecked. The types of smaller arrows are quite numerous, such as the small bird barbs, the small lances, spears and fish points. In all it would take pages to describe them. To illustrate, an arrow is classified first as to point; 2nd, the edge or face; 3rd, the bevel; 4th, the blade; 5th, the tang; 6th, the stem; 7th, the base; 8th, the neck; and 9th, the barb or shoulder.

The implements of agriculture are not so numerous, yet, are very interesting and are work of a higher order. Implements of stone shape the way for a higher order of civilization. In 1828-29 near Rock Island over 3,000 acres of corn in one spot flourished and ripened. Here in our County we find the mortar dish, the pestle and grinder, the notched hoe, adz, and hafted spade, evidence of agriculture. The higher the order of workmanship the less numerous are the objects. Now and then their ornaments ceremonials and charms are found. Their carved effigies and pottery ware show a marked advance in the stone age. Fragments of pottery ware are sometimes found at old camp sites, but as so little is found I will not go into detail regarding it. No doubt at permanent camps pottery ware was made and burnt. They found in this locality all the tempering material, such as clay, sand and shells. Using pulverized stone with their burnt clay. So far, I have seen but one piece of glazed pottery with colored design from this locality. We marvel at the perfect contour of line, and uniform thickness, when we consider that perhaps the pottery wheel was unknown at this time. Further history of pottery ware must be based on vases and ware found in burial mounds, and as over 30 years have passed since the opening of one, much history has been lost. I am in hopes that someday further information may be added.

Now and then bone awls as well as squid sewing needles are found. Bone ware was used for many purposes. Such as cutting. Flaking and drilling. I cannot pass by this interesting work of drilling with either bone or stone. Even at some of his other handiwork we stand perplexed, when we know that our workmen of to-day cannot duplicate their work. Holes were drilled in small pearls and also through the hardest of materials such as granite and hematite.

They knew the value of sand in drilling and, in many cases, silica is found. One that I recall was a bone flute found in this locality, having little holes or perforations made in a straight line so that the same could be fingered. Such ware to-day is very rare, most of it having decayed. The finding of musical instruments shows a refining influence even in primitive life as we weave together the story of human progress. Perhaps the first musical sound heard was the clanking of stones at the quarries where they were broken and fashioned into weapons. Our Indians here had developed music to quite a high art, using five notes to the scale and making their run down instead of up as we do.

It might be interesting to know that most of our Indian handiwork is made of stone transported, as we had no quarries here in the County. The only material that could be found for work was in our glacial drift. The heavy weapons of warfare and chase were made from the glacial granite pebbles found along our streams. This accounts for the many beautiful specimens and the variety of color found in our axes, celts, and hatchets or tomahawks. Now and then an ax of jade is found. In the flaked and chipped ware, the material shows much barter and trade from other quarries, therefore the great variety and color of stone. We find ware of obsidian, agate, camelian, jasper, petrified wood, transparent quartz, and many others of flint and chert, and now and then a local pebble of solidified coral and even some with the imprint of the sea lily or rinoidea. The mill pore, the mound and chain coral, were made into beautiful arrows. So

interesting is this to the collector that class workmanship is recognized and also that the workman was considering color and beauty in the stone cutting art. It is probably true that skilled workmen were making this a specialty, since Longfellow mentions the ancient arrow maker. The most prized of all this work are objects made from hematite, an iron ore transported from the Lake Superior region and the Iron Mountains of Missouri. We find the grooved ax, the celt or hatchet, the plumb bob, and the skinning knife. The skill and patience exhibited in fashioning these objects would easily class the maker as a master workman. The material had a hardness of from 4.5 to 6.5 and a specific gravity of 4.9 to 5.3. Some of this ware is quite magnetic. I might say that now and then ferruginous ware is found, although quite rare in this locality. It also has a hardness of 5 on a scale of 10.

Copper objects also are quite rare in this locality. I have a few found along the Illinois River at Buffalo Rock near Ottawa. The objects found in caches or pockets are not numerous, yet many that have been found have been forgotten. Only those interested have kept a record. Perhaps many will come to light as interest increases. Mr. J. B. Grotevant's find is the best so far. His find of 26 pieces of spades (agricultural implements) found in a cache near Ocoya is very interesting. A small cache found near Scovel contained arrowheads and another found near Cullom contained a mortar dish and battle ax with a celt and a few arrows.

Quite a few have been found along our Vermillion by early settlers in the clearing of the timber. Some were found under trees and some the plow would expose, yet it was of no interest, simply a passing incident.

Indian picture writing has, through the hand of man, become obliterated. Now and then small record stones are found. Along the north bank of Five Mile Creek some writing was found and is now in Mr. James Smith's collection at Saunemin. I sent a duplicate copy to the Bureau of

Ethnology, but it could not be deciphered. All our timbered spots along the Vermillion show signs of Indian habitation. Even around the old oak trees at Five Mile Grove I can still find their flakes. At Five Mile three of the old French hand-made trader's axes were found. In the timber spot near Wing quite a few arrows are found. The spot east of that, the Ox Bow, is where I found a good specimen of the ax-makers art which had been turned up by the dredge boat.

It might be of interest to mention the signal hills of our County such as Sugar Loaf south of Kempton. Here quite a few arrow heads have been found. The depression in that hill was not of Indian origin but was used as an outpost by the early prairie bandits to give them a wide outlook over the swamp region. Sugar Loaf has an elevation of a little over 750 feet. The next is the Smith Mound just south of Blackstone with about the same elevation. Here many arrows have been found. This mound is not of Indian origin. The next are the Grey Knobs south of Chatsworth at Oliver's Grove, (once known as Kickapoo Grove) near where the moraine divides. This has an elevation of 831 feet. From these hills news was conveyed over this region by signal fires.

The Indian burial mounds are nearly all obliterated along the Vermillion. Their elevation was only a few feet, so in the clearing of the timber and the cultivation of the land many were not even recognized. The Tom Smith Mound in Avoca Township near the junction of Indian Grove Creek had an elevation of about 5 feet. The writer has stood on it in an early day not knowing it was a mound. Not till the opening of the mound for a cellar did it reveal its hidden treasures. These are now scattered to the four winds. Even in his resting place, in his endless sleep, the Indian is disturbed. Another civilization takes his place, so forgetful that not a line is recorded. This is the only mound recognized by collectors as of very old origin. Around the mound was a

great camping ground, perhaps the largest in the County. The finds here were very numerous and of many different types.

Following along this line I will mention a few other camping places of importance. The second is the bench land along the Vermillion in Amity Township. This is very rich in finds. Even last spring I found a battle ax, celt and arrows on fields cultivated over 50 years. Our treasure spot at Pontiac is the old Indian camping grounds east of town known as Rollins Grove. All our collectors have visited this old camp site and pictured what might have been in the long ago when the Indian teepees numbered into the hundreds. All around this old camping ground their chipped objects are quite numerous, and on the old trails to-day the barb can still be found. Let us preserve this beauty spot along our beautiful Vermillion, this one spot that is so closely linked with the primitive. Let the springs that are still there quench our thirst. That which they have loved, let us love, that over which their children roamed let ours roam, for those that are yet to come let it be preserved and not defiled.

Another area of bluff or bench land is that of the old or ancient channel of the Vermillion near the McCormack homestead south and east of Pontiac, sometimes call the Ox Bow. Here are still the springs. Here too the barb is found. A Miss McCormack has quite a collection from this locality. Other camping places are known but I am drifting to a close. I have had my dreams of this old Ox Bow. Here a beautiful artificial lake could be made such as it once was. I would like to name it Kickapoo Lake after the Kickapoo Indians who lived there.

It would be indeed an interesting history if all our finds of Indian relics could be preserved, gathered in one museum and classified. What a light would gleam from the hazy past! It would surprise one if he could read the history of a forgotten race from the actual evidence upon the collector's shelves. The collector has gathered together the scattered fragments that tell

the story, a story in stone, deserving a place in the history of our county. Much of our Indian handiwork is scattered, some carried away, some lost, some destroyed. The writer has heard of some fine specimens being broken, many an arrow has been broken and defaced to see flint strike fire. This is to be regretted for they cannot be restored. The hand that so easily destroys cannot duplicate.

The specimens found in my own Township, Saunemin (named after a tribal leader subordinate to the Illiniwek Chief Cheycago/Chicago), I have carefully marked, and others given me have received the same consideration. It has been my intent and purpose in this short sketch to give a brief classification of the Indian handiwork of this County, perhaps never given before. To the student, to the investigator, and to the collector, I lend my co-operation.

Henry J. Mies,

Pontiac, IL

APPENDIX 2

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

CONSTITUTION AND BY-LAWS OF THE KICKAPOO TRIBE OF INDIANS OF THE KICKAPOO RESERVATION IN KANSAS

APPROVED FEBRUARY 26, 1937

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1937

CONSTITUTION AND BY-LAWS OF THE KICKAPOO TRIBE OF INDIANS OF THE KICKAPOO RESERVATION IN KANSAS

PREAMBLE

We, the people of the Kickapoo Tribe in Kansas in order to form a recognized representative council to handle our tribal affairs; in order to take advantage of the benefits of the Indian Reorganization Act of June 18, 1934, and in order to improve the economic condition of members of the tribe, do establish this Constitution and By-laws.

ARTICLE I-TERRITORY

The jurisdiction of the Kickapoo Tribe shall extend to the territory within the confines of the Kickapoo Reservation as defined under the Treaty of May 18, 1854, and to such other lands as may be hereafter added thereto under any law of the United States.

ARTICLE II-MEMBERSHIP

SECTION 1. The membership of the Kickapoo Tribe shall consist of:

(a) All persons of Indian blood whose names appear on the official census roll of the Kickapoo Tribe as of January 1, 1937, provided that within one year from the adoption and approval of this Constitution and By-laws correction may be made in the said roll by the Tribal Council subject to the approval of the Secretary of the Interior;

(b) All children born to any member of the Kickapoo Tribe who is a resident of the reservation at the time of the birth of said children.

SEC. 2. The Tribal Council shall have the power to adopt persons of Indian blood who are residing on the reservation and who are intermarried with members of the tribe, subject to the approval of the Secretary of the Interior, provided that such persons relinquish their membership in any other tribe.

SEC. 3. The Tribal Council shall have power to make ordinances, subject to review by the

Secretary of the Interior, governing the adoption of other persons of Indian blood, and governing future membership.

ARTICLE III-GOVERNING BODY

SECTION 1. The governing body of the Kickapoo Tribe shall be the Tribal Council which shall be composed of seven members elected by the tribe.

SEC. 2. The election shall be held annually on the first Monday in October. Within 30 days after the adoption and approval of this Constitution and By-laws the present Business Committee shall call, hold and supervise an election for members of the Tribal Council. The four persons receiving the highest number of votes shall serve until their successors are elected at the second annual election and the three receiving the next highest number of votes shall serve until their successors are elected at the first annual election which shall be held on the first Monday in October following the approval of this Constitution and By-laws. After this first election called by the Business Committee, the Councilmen elected at each annual election shall serve for two years.

SEC. 3. After each election of Councilmen the Tribal Council shall meet and organize for business by electing from its own number a Chairman, a Vice-Chairman, a Secretary and a Treasurer, and by appointing from the members of the Council or the tribe such other officials, committees or boards as may be deemed necessary.

SEC. 4. All members of the tribe who are 21 years of age or over and who have resided on the reservation for at least six months preceding any election shall be qualified voters in tribal elections.

SEC. 5. In order for a person to be qualified to hold office as Councilman he must be a member of the tribe, 21 years of age or over and have resided on the reservatioia at least one year prior to the date of his election.

ARTICLE IV-VACANCIES AND REMOVAL OF COUNCILMEN

SECTION 1. Upon a petition signed by 30 per cent of the qualified voters of the tribe stating a complaint against a member of the Tribal Council and asking for his recall, the Tribal Council shall call a meeting of the tribe to vote on whether or not the Councilman shall be recalled. At such meeting the accused Councilman shall be given an opportunity to speak in his own defense. If such Councilman is recalled, the tribe shall proceed to elect a person to fill the unexpired term.

SEC. 2. The Tribal Council may by a vote of five of its members remove a Councilman for neglect of duty or misconduct in office, after giving such Councilman notice of the charge and an opportunity to be heard.

SEC. 3. Vacancies in the Tribal Council caused by removal, death or resignation may be filled by the Tribal Council by appointment of a member of the tribe to serve as Councilman for the unexpired term.

ARTICLE V-POWERS OF THE TRIBAL COUNCIL

SECTION 1. *Enumerated powers.*-The Tribal Council of the Kickapoo Tribe shall exercise the following powers, subject to any limitations imposed by the statutes or the Constitution of the United States;

(a) To negotiate with the Federal, State, and local governments;

(b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior;

(c) To veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other assets of the tribe;

(d) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Kickapoo Tribe prior to the submission of such estimates to the Bureau of the Budget and to Congress;

(e) To make and enforce ordinances, which shall be subject to review by the Secretary of the Interior, providing for the manner of making, holding and revoking assignments of tribal land or interests therein;

(f) To provide for the levying of taxes and the appropriation of available tribal funds for public purposes of the Kickapoo Tribe;

(g) To lease tribal land in accordance with law;

(h) To regulate the procedure of the Council itself and other tribal agencies and of tribal meetings and elections;

(i) To charter subordinate organizations for economic purposes and to delegate to such organizations, or to any subordinate boards, committees, or officials of the tribe, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

SEC. 2. *Future powers.*-The Tribal Council may exercise such further powers as may in the future be delegated to the Council by any member of the tribe or by the Secretary of the Interior or any other duly authorized official or agency of the State or Federal Government.

SEC. 3. *Reserved powers.*-Any rights and powers heretofore vested in the Kickapoo Tribe but not expressly referred to in this Constitution shall not be abridged by this article, but may be exercised by the people of the Kickapoo Tribe through the adoption of appropriate by-laws and constitutional amendment.

SEC. 4. *Manner of review.*-Any resolution or ordinance which by the terms of this Constitution, is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the reservation who shall, within ten days thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may, within 90 days from the date of enactment, annul the said ordinance or resolution for any cause, by notifying the Tribal Council of such decision.

If the Superintendent shall refuse to approve any ordinance or resolution submitted to him, within ten days after its enactment, he shall advise the Tribal Council of his reasons therefor. If these reasons appear to the Tribal Council insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior who may, within 90 days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

ARTICLE VI-REFERENDUM

SECTION 1. Upon petition by 30 percent of the qualified voters of the tribe protesting any action of the Tribal Council, the Tribal Council shall call a special meeting of the tribe to vote on whether the action of the Council shall be vetoed or upheld. The action of the tribe shall be final.

ARTICLE VII-AMENDMENTS

This Constitution and By-laws may be amended by a majority vote of the qualified voters of the tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least 30 per cent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a request from the Tribal Council or a petition signed by one-third of the qualified voters.

BY-LAWS OF THE KICKAPOO TRIBE OF INDIANS OF THE KICKAPOO RESERVATION IN KANSAS

ARTICLE I-DUTIES OF OFFICERS

SECTION 1. *Chairman of the Tribal Council.* The Chairman shall preside over all meetings of the Council and of the tribe, and shall perform the usual duties of a Chairman, and exercise any authority delegated to him by the Council.

SEC. 2. *Vice-Chairman of the Tribal Council.* The Vice-Chairman shall assist the Chairman when called upon to do so and in the absence of the Chairman he shall preside. When so presiding, he shall have all the rights, privileges and duties as well as the responsibilities of the Chairman.

SEC. 3. *Secretary of the Tribal Council.* The Secretary shall conduct all tribal correspondence and shall keep an accurate record of all matters transacted at tribal council meetings, which record shall be available to the Superintendent of the jurisdiction and the Commissioner of Indian Affairs, upon their request.

SEC. 4. *Treasurer of the Tribal Council.* -The Treasurer shall accept, receive, receipt for, preserve and safeguard all funds in the care of the Council. He shall deposit all funds in such depository as the Tribal Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession and custody, at such times as are requested by the Tribal Council. He shall not pay out or otherwise disburse any funds in his possession or care except in accordance with a resolution duly passed by the Tribal Council. When in the opinion of the Tribal Council or the Commissioner of Indian Affairs, sufficient funds have accumulated in the Tribal Council Treasury to make it advisable to bond the Treasurer, he shall be required to give a bond satisfactory to the Tribal Council and Commissioner of Indian Affairs.

ARTICLE II-MEETINGS

SECTION 1. Regular meetings of the Tribal Council shall be held in October, January, April, and July on such date and at such place as may be designated by the Tribal Council, and at such other regular times as the Council may decide. Special meetings of the Council may be called by the Chairman at any time.

SEC. 2. Five members of the Tribal Council shall constitute a quorum.

SEC. 3. The Tribal Council shall call a regular meeting of the tribe in January and June of every year at which meeting the Council shall report its activities in the preceding six months and take up matters of general tribal interest. Special meetings of the tribe in addition to those

required under the Constitution may be called in the discretion of the Tribal Council.

SEC. 4. One-third of the qualified voters of the tribe shall constitute a quorum at any tribal meeting.

ARTICLE III-RATIFICATION OF CONSTITUTION AND BY-LAWS

This Constitution and By-laws, when adopted by a majority vote of the voters of the Kickapoo Tribe voting at a special election called by the Secretary of the Interior, in which at least 30 per cent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be in force from the date of such approval.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved December 18, 1936, by the Secretary of the Interior, the attached Constitution and By-laws was submitted for ratification to the Kickapoo Tribe of the Kickapoo Reservation in Kansas, and was on January 23, 1937, duly ratified by a vote of 70 for, and 8 against, in an election in which over 30 per cent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935, (49 Stat. 378).

ALEX ALLEN,
Chairman of Election Board.
ROBERT MASQUAT,
Secretary of Election Board.

H. E. BRUCE, *Superintendent.*

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and By-laws of the Kickapoo Tribe in Kansas.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution or By-laws are hereby declared inapplicable to these Indians.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

Approval recommended February 18, 1937.

WILLIAM ZIMMERMAN, JR.

Assistant Commissioner of Indian Affairs.

HAROLD L. ICKES,

Secretary of the Interior.

WASHINGTON, D. C., February 26, 1937.

[SEAL]

APPENDIX 3

UNITED STATES DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

CONSTITUTION AND BY-LAWS OF THE KICKAPOO TRIBE OF OKLAHOMA

RATIFIED SEPTEMBER 18, 1937

UNITED STATES

GOVERNMENT PRINTING OFFICE
WASHINGTON: 1938

CONSTITUTION OF THE KICKAPOO TRIBE OF OKLAHOMA

PREAMBLE

We, the Kickapoo Indians of Oklahoma, in order to promote our common welfare and to secure to ourselves and our descendants the rights, powers and privileges offered by the Thomas-Rogers Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), do establish this organization and adopt the following Constitution and By-laws pursuant to that Act.

ARTICLE I-NAME

The name of this organization shall be the Kickapoo Tribe of Oklahoma.

ARTICLE II-MEMBERSHIP OF TRIBE

The membership of the Kickapoo Tribe of Oklahoma shall consist of the following persons:

SECTION 1. All persons of Indian blood whose names appear on the official census roll of the Tribe as of January 1, 1937.

SEC. 2. All children born since the date of said roll, both of whose parents are members of the Tribe.

SEC. 3. Any child born of a marriage between a member of the Kickapoo Tribe and a member of any other Indian tribe who chooses to affiliate with the Kickapoo Tribe.

SEC. 4. Any child born of a marriage between a member of the Kickapoo Tribe and any other person, if such child is admitted to membership by the Council of the Kickapoo Tribe.

SEC. 5. The Business Committee shall have the power to make rules and regulations subject to review of the Secretary of the Interior, governing the adoption of members not otherwise provided for in this Constitution and By-laws.

ARTICLE III-MEMBERSHIP OF COUNCIL

The supreme governing body of the Tribe shall be the Kickapoo Council. The membership of the Council shall be all the members of the Kickapoo Tribe, 21 years of age and older, residing in Oklahoma.

ARTICLE IV-OFFICERS

SECTION 1. The officers of this Tribe shall be the Chairman, Vice-Chairman, Secretary, Treasurer, and one Councilman. The term of officers shall be for two years, or until their successors are elected and installed.

ARTICLE V-COMMITTEES

SECTION 1. There shall be a Business Committee which shall consist of the officers and councilman as provided in Article IV. This committee shall have power to transact business and otherwise speak or act on behalf of the Tribe in all matters on which the Tribe is empowered to act. The powers of the Tribe shall be set forth in detail in the corporate charter to be requested by the Business Committee.

SEC. 2. *Grievance Committee*. This committee shall consist of three members who shall be elected by the Council and shall not include any members of the Business Committee.

ARTICLE VI-MEETINGS

SECTION 1. Annual meetings of the Council shall be held on the first Wednesday of June for the purpose of receiving reports and transacting any other business which may come regularly before the Council.

SEC. 2. Special meetings of the Council may be called at the discretion of the Chairman, and shall be called by him upon the written request of a majority of the Business Committee or upon the written request of twenty-five members of the Tribe or pursuant to a vote of the Council at any meeting, provided that at least ten days' notice shall be given in each instance.

SEC. 3. The principal object of a special council meeting must be stated in the call for same and may include the words "and for the transaction of other business that may be presented." Unless these words are added no other business can be transacted except for the object stated in the call.

SEC. 4. The regular meetings of the Business Committee shall be held on the first Wednesday in each month unless otherwise provided by resolution.

SEC. 5. Special meetings of the Business Committee may be called by the Chairman at his discretion and shall be called by him upon the written request of three members of the Business Committee.

ARTICLE VII-ELECTIONS

SECTION 1. Within 30 days after the adoption of this Constitution and By-laws an election of officers and members of the Grievance Committee shall be held by the Council. The officers and members of the Grievance Committee elected at this election shall serve till the next regular election provided for in section 2 of this Article or until their successors are elected and installed.

SEC. 2. Regular elections of officers and members of the Grievance Committee shall be held by the Council at its regular annual meeting on the first Wednesday in June 1939, and on the first Wednesday in June of each second year thereafter.

SEC. 3. Election shall be by standing vote, a majority vote of the membership present being necessary to elect. Where there are more than two candidates for an office and no one receives a majority vote the low candidate shall be eliminated and voting shall proceed until one candidate receives a majority of the votes cast. Nominations may be made from the floor. The newly elected officers shall be installed immediately upon their elections.

ARTICLE VIII-VACANCIES

Vacancies in any elective office shall be filled for an unexpired term at any special or regular meeting of the Council.

ARTICLE IX-REMOVAL OF OFFICERS

The Grievance Committee shall investigate complaints of misconduct in office of the members of the Business Committee and upon a proper showing shall call a special meeting of the Council to act upon such complaints. The Council shall have power, by a majority vote, after giving the accused a hearing, to remove him from office and proceed to elect a successor.

ARTICLE X-BILL OF RIGHTS

SECTION 1. All members of the Tribe shall enjoy without hindrance, freedom of worship, conscience, speech, press, assembly and association.

SEC. 2. This Constitution shall not in any way alter, abridge or otherwise jeopardize the rights and privileges of the members of this Tribe as citizens of the State of Oklahoma or the United States.

SEC. 3. The individual property rights of any member of the Tribe shall not be altered, abridged or otherwise affected by the provisions of this Constitution and By-laws without the consent of such individual member.

ARTICLE XI-AMENDMENTS

Amendments to this Constitution and the attached By-laws may be proposed by a majority vote of the Business Committee or by a petition signed by thirty per cent of the adult members of the Tribe, and if approved by the Secretary of the Interior, shall be submitted to a referendum vote of the adult members of the Tribe, and shall be effective if approved by a majority of the votes cast.

BY-LAWS OF THE KICKAPOO TRIBE OF OKLAHOMA

ARTICLE I-DUTIES OF OFFICERS

SECTION 1. *Chairman.* The Chairman shall preside at all meetings of the Council and of the Business Committee. He shall have general supervision of the affairs of the Council and of the Business Committee and shall perform all duties pertaining to the office of Chairman.

SEC. 2. *Vice-Chairman.* In the absence of the Chairman, the Vice-Chairman shall perform the duties of that office. In case of vacancy, the Vice-Chairman shall succeed at once to the office of the Chairman until the next special or regular election for the office of Chairman.

SEC. 3. *Secretary.* The Secretary shall keep an accurate account of all proceedings and official records of the Council and of the Business Committee. He shall be responsible for the prompt and efficient handling of all correspondence pertaining to the business of the Council and of the Business Committee. All official records of the Secretary shall be open to inspection by the members of the Council, in the presence of the Secretary, upon the order of the Grievance Committee. He shall keep a correct list of all members of the Council, shall authenticate all accounts or orders of the Council and, in the absence of the Chairman and Vice-Chairman shall call meetings to order until a chairman pro tem is elected. He shall render a written report at the annual Council meeting and, at the expiration of his term of office, the records and all papers in his possession shall be turned over to his successor.

SEC. 4. *Treasurer.* The Treasurer shall be the custodian of all funds in possession of the Council from any source. He shall keep an accurate record of all such funds and shall disburse the same in accordance with the vote of the Business Committee. He shall render a written report at the annual Council meeting and at such times that he is requested to do so by the Business Committee. He shall keep all tribal moneys entrusted to his care in a special account. At any time that such account shall amount to more than \$50, he shall file a bond satisfactory to the Business Committee, and the Commissioner of Indian Affairs. The cost of such bond shall be paid out of tribal money. At the expiration of his term of office, the records and all papers and funds in his possession shall be turned over to his successor.

ARTICLE II-QUALIFICATIONS OF OFFICERS

Any person elected to membership on the Business Committee shall be not less than 21 years of age and a member of the Kickapoo Tribe of Oklahoma. At the time of his election, he shall be a bona fide resident of the territory known as the Shawnee Indian Agency jurisdiction in Oklahoma. Any person holding an elective office removing from the Shawnee Agency jurisdiction shall automatically lose office.

ARTICLE III-PLACE OF MEETINGS

All regular and special meetings of the Council and of the Business Committee shall be held at the Kickapoo Community House unless some other point under the Shawnee Agency jurisdiction is designated in the call or notice.

ARTICLE IV-QUORUM

SECTION 1. Twenty-five members of the Council shall constitute a quorum to transact business at any meeting.

SEC. 2. Three members of the Committee shall constitute a quorum to transact business at any meeting.

ARTICLE V-ADOPTION

This Constitution and By-laws shall be effective when approved by the Secretary of the Interior and ratified by a majority vote of the members of the Kickapoo Tribe of Oklahoma voting at an election called by the Secretary of the Interior under rules and regulations promulgated pursuant to Section 3 of the Oklahoma Welfare Act of June 26, 1936.

I, Oscar L. Chapman, the Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 26, 1936 (49 Stat. 1967), do hereby approve the attached Constitution and By-Laws of the Kickapoo Tribe of Oklahoma.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the revisions of the said Constitution and By-laws, are hereby declared inapplicable to the Kickapoo Tribe of Oklahoma.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

Approval recommended August 11, 1937.

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner of Indian Affairs.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[SEAL}

WASHINGTON, D. C., *August 18, 1937.*

CERTIFICATION OF ADOPTION

Pursuant to an order, approved August 18, 1937 by the Assistant Secretary of the Interior, the attached Constitution and By-laws was submitted for ratification to the members of the Kickapoo Tribe of Oklahoma and was on September 18, 1937 duly approved by a vote of 64 for, and 26 against, in an election in which over 30 per cent of those entitled to vote cast their ballots, pursuant to Section 3 of the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967).

GEORGE KISHKETON
Chairman, Business Committee.

SWEENEY STEVENS,
Member, Business Committee and Kickapoo Election Board.
(Secretary absent.)

F. E. PERKINS,

Superintendent, Shawnee Indian Agency, Oklahoma.

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

**CORPORATE CHARTER
OF THE
KICKAPOO TRIBE OF OKLAHOMA**

RATIFIED JANUARY 18, 1938

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1938

**CORPORATE CHARTER OF THE KICKAPOO TRIBE OF
OKLAHOMA**

A FEDERAL CORPORATION CHARTERED UNDER THE ACT OF JUNE
26, 1936

Whereas, the Kickapoo Tribe of Oklahoma constitutes a recognized Tribe of Indians residing in Oklahoma, organized under a constitution and by-laws approved by the Assistant Secretary of the Interior on August 18, 1937, and ratified by the Indians of the said tribe on September 18, 1937, pursuant to section 3 of the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967); and

Whereas, the said tribe, by resolution of the Kickapoo Business Committee duly authorized, has requested that a charter of incorporation be issued to the said tribe, subject to ratification by a vote of the members of the Tribe;

Now, therefore, I, Oscar L. Chapman, Assistant Secretary of the Interior, by virtue of the authority conferred upon me by the said act of June 26, 1936, do hereby issue this Charter of incorporation to the Kickapoo Tribe of Oklahoma, to be effective from and after such time as it may be ratified by a majority vote of the adult members of the Kickapoo Tribe voting: *Provided, however,* That such election shall be void unless the total vote cast be at least 30 per cent of those entitled to vote.

*Corporate
Purposes.*

1. The corporate purposes of the Kickapoo Tribe of Oklahoma shall be:
 - (a) To define and safeguard the rights and powers of the Kickapoo Tribe of Oklahoma and its members.
 - (b) To advance the standard of living of the Tribe through the development of tribal resources, the acquisition of new tribal land, the preservation of existing land holdings, the better utilization of land and the development of a credit program for the Tribe.
 - (c) To promote in any other way the general welfare of the Indians of the Kickapoo Tribe of Oklahoma.

*Name,
Membership and
Organization*

2. The name of this corporation shall be the Kickapoo Tribe of Oklahoma, as provided in the Constitution and By-laws of the said tribe. The membership,

the officers, and the management of the incorporated Tribe shall be as provided in the said constitution and by-laws.

Corporate Powers. 3. The Kickapoo Tribe of Oklahoma, subject to any restrictions contained in the Constitution and laws of the United States or in the Constitution and By-laws of the Tribe, and subject to the limitations of Sections 4 and 5 of this Charter, shall have the following corporate powers as provided by Section 3 of the Oklahoma Indian Welfare Act of June 26, 1936.

- (a) To have succession by its corporate name perpetually.
- (b) To sue and be sued; to complain and defend in any court: *Provided, however,* That the grant or exercise of such power shall not be deemed a consent by the Tribe or by the United States to the levy of any judgment, lien or attachment upon the property of the Tribe other than income or chattels specially pledged or assigned.
- (c) To make and use a common seal and alter the same at pleasure.
- (d) To appoint such subordinate officers and agents as the business of the Tribe may require, and to allow them suitable compensation.
- (e) To enter into any obligations or contracts essential to the transaction of its ordinary affairs or for the corporate purposes above set forth.
- (f) To borrow money from the Indian Credit Fund in accordance with the terms of Section 10 of the Act of June 18, 1934 (48 Stat. 984) and Section 6 of the Act of June 26, 1936 (49 Stat. 1967) or from any other governmental agency, or from any member or association of members of the Tribe.
- (g) To deposit corporate funds in a National Bank within the State of Oklahoma or in the Postal Savings Bank or with a bonded disbursing officer of the United States.
- (h) To negotiate with the Federal, State, or local governments and to advise or consult with the representatives of the Interior Department on all activities of the Department that may affect the Kickapoo Tribe.
- (i) To employ counsel for the protection and advancement of the rights of the Tribe and its members.
- (j) To prevent any disposition, lease, or encumbrance of tribal lands, interests in land, or other tribal assets.
- (k) To advise the Secretary of the Interior regarding appropriation estimates or federal projects for the benefit of the Tribe prior to the submission of such estimates to the Bureau of the Budget and to Congress.
- (l) To make assignments of tribal land to members of the Tribe, and to regulate the use and disposition of such assignments.
- (m) To appropriate available funds for public purposes of the Kickapoo Tribe.
- (n) To regulate the manner of holding tribal elections.
- (o) To regulate the procedure of the Council and Business Committee and all other tribal committees and officers.
- (p) To protect and preserve the property, natural resources, crafts and traditions of the Kickapoo Tribe.
- (q) To purchase, take by gift, bequest or otherwise, own, hold, manage, operate, and dispose of property of every description, real or personal.

(r) To issue bonds or other interests in corporate property in exchange for restricted Indian lands.

(s) To protect all rights guaranteed to the Kickapoo Tribe of Oklahoma by treaty.

(t) To delegate to subordinate bodies, committees, or officers, or to any cooperative association which is open to all members of the Tribe, any of the foregoing powers, reserving the right to review any actions taken by virtue of such delegated powers.

(u) To exercise such further powers as may in the future be delegated to the Tribe by the Secretary of the Interior or by any duly authorized officer or agency of government.

Limitations of Corporate Powers. 4. The foregoing corporate powers shall be subject to the following limitations:

(a) No tribal land or interest in land shall ever be sold or mortgaged.

(b) No tribal land or interest in land shall be leased for a longer period than ten years except that oil, gas or mineral leases may be made for longer periods when authorized by law.

(c) Any lease, grazing permit, or timber sale contract covering tribal land shall provide that the person to whom such lease, permit, or contract is awarded, must conform with regulations issued by the Secretary of the Interior under Section 6 of the Act of June, 18, 1934 (49 Stat. 984).

(d) No assignment of future income, other than assignments to the United States, shall be made for more than five years in advance.

(e) In any attorney's contract hereafter executed by the Tribe the choice of attorneys and the fixing of fees shall be subject to the approval of the Secretary of the Interior. No distribution of corporate property among the members of the Tribe shall be made, except out of the net profit of corporate enterprises after all corporate debts then due have been paid.

Departmental Review of Corporate Acts. 5. Until ten years from the date of ratification of this Charter, or such other date as may be fixed pursuant to Section 6, the following corporate acts or transactions shall be valid only after approval by the Secretary of the Interior or his duly authorized representative:

(a) Any contract involving a payment by the Tribe of more than \$2,000, or of more than \$1,200 in any one year.

(b) Any transaction by which the Tribe borrows money where such borrowing brings the total indebtedness of the Tribe, aside from loans from the Indian Credit Fund, to a figure in excess of \$500.

(c) Any resolution or ordinance governing the making of land assignments to members of the Tribe, the acquisition of land from members of the Tribe, or use of tribal land by individuals.

(d) Any lease, grazing permit, or other contract affecting tribal land, tribal minerals, or other tribal interest in land.

(e) Any per capita distribution of corporate income to members of the Tribe, in excess of \$200 in any one year.

Extension and Termination of 6. At any time within ten years after the ratification of this Charter, any power of review established by nation of Section 5 may be terminated by the

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|---------------------------------------|---|
| <i>Supervisory Powers.</i> | Secretary of the Interior with the consent of the Kickapoo Council. At or before the expiration of this ten-year period, the Secretary may propose a further extension of this period. Such proposed extension shall be effective unless disapproved by a three-fourths vote of the Kickapoo Council. |
| <i>Corporate Rights and Property.</i> | 7. Any rights and powers heretofore vested in the Kickapoo Tribe of Oklahoma, not expressly referred to in the Constitution, By-laws or Charter of the said tribe, shall not be abridged, but may be exercised by the people of the Kickapoo Tribe of Oklahoma, through the adoption of appropriate additions and amendments to the Constitution and By-laws or Charter of the said tribe. No property rights or claims of the Kickapoo Tribe existing prior to the ratification of this Charter shall be in any way impaired by anything contained in this Charter. The Tribal ownership of unallotted lands, whether or not occupied by any particular individual, is hereby expressly recognized. The individually owned property of members of the Tribe shall not be subject to any debts or liabilities without such owners' consent. |
| <i>Amendments.</i> | 8. This Charter shall not be revoked or surrendered except by an Act of Congress, but amendments may be proposed by a majority vote of the Business Committee or by a petition signed by 30 per cent of the adult members of the Tribe. Such amendments, if approved by the Secretary of the Interior, shall be submitted to referendum vote of all adult members of the Tribe, and shall be effective if approved by a majority vote. |
| <i>Ratification.</i> | 9. This Charter shall be effective from and after the date of its ratification by a majority vote of the adult members of the Kickapoo Tribe of Oklahoma, provided that at least 30 per cent of the eligible voters shall vote, such ratification to be formally certified by the Superintendent of the Shawnee Indian Agency and the Chairman and Secretary of the Tribe. |

Submitted by the Assistant Secretary of the Interior for ratification by the Kickapoo Tribe of Oklahoma.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.
 [SEAL]

WASHINGTON, D. C., *December 11, 1937.*

CERTIFICATION

Pursuant to section 3 of the Act of June 26, 1936 (49 Stat. 1967), this Charter, issued on December 11, 1937 by the Assistant Secretary of the Interior to the Kickapoo Tribe of Oklahoma was duly submitted for ratification to the adult members of the Tribe, and was on January 18, 1938 duly ratified by a vote of 45 for and 12 against, in an election in which over 30 per cent of those entitled to vote cast their ballots.

FRANCIS ALLEN,
Chairman of the Kickapoo Tribe

DWIGHT KISHKE
Secretary-Treasurer of the Kickapoo Tribe

F. E. PERKINS,
*Superintendent of the Shawnee
Indian Agency*

APPENDIX 4

UNITED STATES DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

CONSTITUTION OF THE KICKAPOO TRADITIONAL TRIBE OF TEXAS

PREAMBLE

We, the members of the Texas Band of Kickapoo, by virtue of our sovereign rights as an Indian Tribe and pursuant to the authorities conferred by the Indian Reorganization Act of June 18, 1934, (48 Stat. 984), and Public Law 97-429, do hereby organize as a Tribe separate and apart from the Kickapoo Tribe of Oklahoma for the well-being of the Band and its members, to direct and control our own affairs, to protect and develop our land and resources for ourselves and our children, and to ensure the political integrity and cultural identity of the Band, and for these purposes do adopt this Constitution for the Texas Band of Kickapoo, henceforth to be known as the Kickapoo Traditional Tribe of Texas.

ARTICLE I - JURISDICTION

The jurisdiction of the Kickapoo Traditional Tribe of Texas, hereinafter referred to as the Tribe, shall extend to the extent permitted by federal law, to all lands placed in trust for the Tribe pursuant to the Public Law 97-429, known as the Kickapoo Village, to all additional lands which may be acquired by the United States and held in trust for the Tribe, and to all other lands over which the Tribe may exercise jurisdiction under federal law.

ARTICLE II - MEMBERSHIP

Sec. 1. The membership of the Kickapoo Traditional Tribe of Texas shall consist of the following persons:

- (a) All persons of Kickapoo Indian blood whose names appear on the official roll of the Texas Band of Kickapoo dated November 8, 1987, and to those enrolled through November 8, 1988; and
- (b) All children born to a tribal member who are at least one-fourth (1/4) degree Kickapoo Indian blood.

Sec. 2. From and after the adoption of this Constitution, persons who are members of other federally recognized Indian Tribes who are at least 1/4 degree Kickapoo Indian blood may apply for membership in the Tribe provided:

- 1) they have relinquished their membership in the other Tribe;
- 2) they have resided within the jurisdiction of the Tribe as defined in Article I for three
- (3) years and
- 3) the application for membership is approved by the Membership Committee.

Sec. 3. No person shall be a member of the Tribe who is enrolled or recognized as a member in any other tribe, unless he or she relinquishes membership in such other tribe pending enrollment with the Kickapoo Traditional Tribe of Texas by submitting to the Tribe a conditional relinquishment form properly executed. Upon acceptance of enrollment in the Kickapoo Traditional Tribe of Texas, the member shall provide evidence that his or her name has been stricken from the rolls of such other Tribe.

Sec. 4. The Traditional Council shall have the power to prescribe rules and regulations by ordinance not inconsistent with this Article governing all matters pertaining to membership.

Sec. 5. Within a reasonable time after the adoption of the Constitution, the Traditional Council shall appoint a Membership Committee composed of three tribal members who shall serve four (4) year terms, except no Committee member shall serve more than two (2) consecutive terms. The Membership Committee shall act on all applications for membership and other issues relating to membership. Decisions of the Membership Committee may be appealed to the Traditional Council which shall render final decisions. Persons appealing to the Traditional Council on membership matters shall be entitled to a hearing after proper notice. Members of the Membership Committee may be removed only through the recall procedure set out in Article VI, Sec. 4.

ARTICLE III - GOVERNING BODY

Sec. 1. The governing body of the Tribe shall be the Traditional Council which shall be composed of five (5) adult members of the Tribe meeting the qualifications set forth in Article V and elected at large by secret ballot of the qualified voters of the Tribe.

Sec. 2. The Traditional Council shall select one of its male members as Chairman, and shall select a Secretary and Treasurer from among its members.

Sec. 3. Traditional Council Meetings

(a)Quorum. Three (3) members of the Traditional Council shall constitute a quorum of that body. No enactment of the Traditional Council will be valid in the absence of a quorum.

(b)Regular Meetings. Regular meetings of the Traditional Council shall be held quarterly unless otherwise designated by the Chairman with concurrence of the Traditional Council, provided that notice shall be given to the membership of the Tribe at least thirty (30) days in advance specifying the date, time and place of the meeting and provided that at least two regular meetings shall be held at the Kickapoo Village.

(c)Special Meetings. Special meetings of the Traditional Council may be called by the Chairman at his discretion, except that special meetings shall be called by the Chairman within fifteen (15) days of a written request of a majority of the Traditional Council

members. Upon refusal by the Chairman to call a special meeting within fifteen (15) days upon a written request of a majority of the Traditional Council, any member of the Traditional Council may exercise such authority.

(d) Annual General Membership Meeting. There shall be an annual general meeting of the tribal membership called by the Chairman of the Traditional Council to be held the third Saturday of November. The Chairman of the Traditional Council shall present a report to the membership of the activity of the Traditional Council of the past year, and shall outline proposed plans and activities for the coming year. Notice of the Annual General Membership Meeting shall be given by the Secretary of the Traditional Council at least thirty (30) days in advance.

(e) Special General Membership Meetings. Special General Membership meetings may be called by the Chairman of the Traditional Council provided that notice of such meeting shall be given at least fourteen (14) days prior to such meeting. Upon receipt of a valid petition signed by at least 100 eligible voters of the Tribe, the Chairman shall call a Special General Membership meeting within forty-five (45) days of receipt of the petition.

ARTICLE IV - DUTIES OF OFFICERS

Sec. 1. Chairman.

The Chairman of the Traditional Council shall preside over all meetings of the Traditional Council and the Annual General Membership Meeting and shall have general responsibility for the business of the Tribe and shall perform all duties delegated to him by the Traditional Council. In the absence of the Chairman, an acting Chairman may be selected by a majority of the Traditional Council.

Sec. 2. Secretary.

The Secretary of the Traditional Council shall keep an accurate record of all proceedings and enactments of the Traditional Council, and shall file copies with the Tribal office as public records and shall perform such other duties as may be directed by the Traditional Council. All official records of the Secretary shall be open to public inspection during normal business hours in the Secretary or Secretary designee's presence.

Sec. 3. Treasurer.

The Treasurer of the Traditional Council shall accept, receive, preserve and safeguard all funds and assets of the Tribe from any source and keep an accurate account thereof; and shall make disbursements of funds only in accordance with properly executed resolutions of the Traditional council. The Treasurer shall keep all funds entrusted to his care in special bank accounts and shall file a bond with the Secretary of the Traditional Council in an amount satisfactory to the Traditional Council; the cost of such bond shall be paid by the Tribe. The records and accounts of the Tribe shall be open for public inspection during normal business hours in the presence of the Treasurer or his designee.

ARTICLE V - ELECTIONS

Sec. 1.A Regular Elections.

Elections shall be held every two (2) years on the third Saturday in November with the members being selected to fill the positions with terms expiring that year on the Traditional Council. Following the first election conducted under this Constitution all terms of office shall be for four (4) years or until successors are duly elected and installed. Members of the Traditional Council shall be selected by secret ballot.

Sec. 2. Special Elections.

In the event a special election is required by any provision of this Constitution, it shall be called by the Election Board and be governed by the Election Ordinance. All special elections shall be held at the earliest possible time during the period October through April, provided at least thirty (30) days notice is given.

Sec. 3. Eligible Voters.

Each tribal member as defined in Article II of this Constitution shall have the right to vote in any tribal election, provided such member: 1) is at least eighteen (18) years of age at the time of such election; and 2) has resided within the jurisdiction of the Tribe as defined in Article I for at least three (3) years at the time of the election. Residency shall be determined by a voter registration procedure to be set forth in the Election Ordinance.

Sec. 4. Election Board and Ordinance.

(a)The Traditional Council shall appoint an Election Board consisting of three tribal members who shall administer and supervise all tribal elections. The Election Board shall resolve all matters pertaining to qualifications of prospective candidates, secret balloting, filing procedures, election disputes, and all other matters pertaining to or arising from tribal elections. The Election Board shall call and conduct all tribal elections in accordance with a tribal Election Ordinance. Members of the Election Board shall serve four (4) year terms, except no Board member may serve more than two (2) consecutive terms. The Election Board shall select a Chairman and Secretary from among the Board members. Members of the Election Board may be removed only through the recall procedure set out in Article VI, Section 4, except that if the Election Board refuses to call any election required by this Constitution, the Board members forfeit their position and the Traditional Council may appoint new members. Members of the Traditional Council may not be appointed to the Election Board.

(b)All tribal elections shall be conducted in accordance with an Election Ordinance enacted by the Traditional Council consistent with this Constitution. Such ordinance shall provide procedures for all aspects of elections, and shall also provide for the conduct of initiative, recall, removal, and referendum elections, and a uniform petitioning procedure. Notice of all regular and special elections and meetings shall be posted in at least three (3) public places within the Kickapoo Village.

Sec. 5. Qualifications of Candidates.

Any person who desires to become a candidate for election or appointment to Traditional Council shall meet the qualifications set forth below:

- (a) must be a tribal member as defined in Article II of this Constitution, and must have been a member for the three (3) years immediately preceding the election in which office is sought;
- (b) must be at least thirty-five (35) years of age;
- (c) must not have been convicted of a felony in the United States or a similar offense in Mexico by a final judgment of any court of competent jurisdiction, must not have intentionally harmed another tribal member with a dangerous weapon and must not have converted tribal funds or property to his or her personal use; and
- (d) must reside within the jurisdiction of the Tribe as defined in Article I for the three (3) years immediately preceding the election in which office is sought.

Sec. 6. First Election.

The first election shall be called by the Election Board for the third Saturday in November, 1991. Until a Traditional council is installed following the first election, the tribal members designated below shall constitute the Traditional Council, and may exercise all powers conferred by this Constitution.

Paul Garza, AKA Makateonenodua

Juan B. Gonzales, AKA Kechemo

Adolfo Anico, AKA Pemosaaaua

Pepe Trevino, AKA Pepisidia

Vicente Lopez, AKA Chakapahthohah

For the first election the two members of the Traditional Council receiving the fewest number of votes shall serve for two (2) year terms; the remaining members shall serve for four year terms. Thereafter all members of the Traditional Council shall serve four (4) year terms. In the event of a tie vote among three or more Council members with the lowest number of votes, after the Chairman is elected, the Election Board shall supervise the drawing of lots among those remaining members with tie votes to determine those members who shall serve two (2) year terms.

Sec. 7. Installation of Traditional Council.

All duly elected members of the Traditional Council shall take office within seven (7) days following the election.

Sec. 8. Compensation.

The Traditional Council may by unanimous vote prescribe compensation for members of the Traditional Council as it deems advisable from available funds.

ARTICLE VI - VACANCIES, REMOVAL, FORFEITURE, RECALL

Sec. 1. Vacancies.

If a member of the Traditional Council is removed, recalled, resigns, forfeits office, or the office otherwise becomes vacant, the Traditional Council shall appoint a person who meeting the qualifications for election to office to serve the remainder of that term, except if more than two (2) years remain in the term, a special election shall be held to fill the position.

Sec. 2. Removal.

The Traditional Council may by majority vote remove any member for neglect of duty or gross misconduct. Before any vote for removal is taken, the member shall be given a written statement of the charges against him at least thirty (30) days before the date of the meeting at which the vote is scheduled, and an opportunity to appear and answer all charges at such designated meeting. The decision of the Traditional Council shall be final and any removed council member shall not be returned to office for a period of at least six years.

Sec. 3. Recall.

Upon receipt of a valid petition signed by at least one hundred (100) eligible voters of the Tribe demanding recall of a member or members of the Traditional Council, Election Board, Membership Committee or Appeals Board, the Election Board, the Election Board shall call a special election within forty-five (45) days. No Council member or other tribal official may be recalled unless at least thirty percent (30%) of the eligible voters of the Tribe vote in the special election, and a majority of those voting cast their ballot in favor of recall. Recall of a Council member which has been which has been submitted to the voters and rejected shall not be considered again for at least twelve (12) months. Only one official shall be considered for recall in any given election.

ARTICLE VII - POWERS OF TRADITIONAL COUNCIL

All powers of the Kickapoo Traditional Tribe of Texas, including but not limited to those powers conferred by section 16 of the Act of June 18, 1934 (25 U.S.C. 465), shall be exercised by the Traditional Council subject only to limitations imposed by the laws or Constitution of the United States, including but not limited to the following powers:

- (a) To negotiate with the Federal, State, and local governments;
- (b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior as long as such approval is required;

- (c) To prevent the sale, disposition, lease, or encumbrance by any person or entity other than by the Traditional Council as provided in this section, of tribal lands, interest in lands, or other tribal assets without the consent of the tribe;
- (d) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Kickapoo Traditional Tribe of Texas;
- (e) To purchase, take by gift or bequest, or otherwise, own, hold, manage, operate, and dispose of property real and personal including the power to purchase restricted Indian land;
- (f) To lease and make assignments of tribal land in accordance with the law;
- (g) To exercise powers necessary to the conduct of business, including entering into contracts and agreements and borrowing money;
- (h) To manage and regulate all tribal economic affairs and activities;
- (i) To appropriate funds;
- (j) To safeguard the peace, safety, welfare and political integrity of the Tribe by enacting appropriate resolutions or ordinances for this purpose;
- (k) To levy taxes and license fees;
- (l) To exclude unauthorized persons from land within the jurisdiction of the Tribe.
- (m) To determine and regulate tribal membership;
- (n) To regulate and maintain law and order on lands within the Tribe's jurisdiction;
- (o) To provide for the administration of justice by establishing tribal courts;
- (p) To condemn lands for public purposes;
- (q) To regulate the use and disposition of property;
- (r) To charter and regulate subordinate organizations and cooperative associations;
- (s) To regulate the inheritance of property, including trust and restricted property, to the extent authorized by law;
- (t) To regulate domestic relations and other internal affairs of the Tribe;
- (u) To appoint guardians;
- (v) To encourage arts and crafts;
- (w) To regulate tribal elections;
- (x) To regulate the conduct of the Traditional Council itself and of tribal meetings.

Sec. 2. Committees and Boards.

The Traditional Council may appoint other officials, committees or boards and delegate responsibilities thereto as may be required from time to time. The duties, responsibilities and compensation for such officials, committee members or board members shall be set by the Traditional Council.

Sec. 3. Future Powers.

The Traditional Council may exercise such further powers as may in the future be conferred by federal law.

ARTICLE VIII - TRIBAL ENACTMENTS

Legislative enactments of the Traditional Council shall be embodied in ordinances, and decisions of the Traditional Council of limited or temporary duration shall be embodied in resolutions, and all such ordinances and resolutions shall be available for public inspection.

ARTICLE IX - POPULAR PARTICIPATION IN GOVERNMENT

Sec. 1. Initiative.

Upon receipt of a valid petition signed by at least one hundred (100) eligible voters of the Tribe, it shall be the duty of the Chairman of the Traditional Council to call within forty-five (45) days an initiative election for the purpose of presenting to all qualified voters such issue requested by the initiative, except that no initiative election may be held for the purpose of voting on whether to distribute any tribal funds as per capita payments. The initiative vote shall be conclusive and binding on the Traditional Council provided that at least thirty percent (30%) of the eligible voters shall vote in the election. No initiative shall serve to abrogate, modify or amend any properly approved contract or agreement.

Sec. 2. Referendum.

Upon receipt of a valid petition signed by one hundred (100) eligible voters of the Tribe, or upon request of a majority of the Traditional Council, any enacted or proposed ordinance or resolution or other action of the Traditional Council shall be submitted to a popular referendum in an election called by the Chairman and held within forty-five (45) days of the receipt of the petition or request. The referendum vote shall be conclusive and binding on the Traditional Council provided that at least thirty percent (30%) of eligible voters shall vote in the election. No referendum shall serve to abrogate, modify or amend any properly approved contract or agreement.

Sec. 3. Whenever possible, any initiative or referendum election shall be held in conjunction with any scheduled regular or special Traditional Council Meeting or General Membership Meeting.

Sec. 4. No initiative or referendum which has been submitted to the members and rejected shall be considered again for at least twelve (12) months.

ARTICLE X - RIGHTS OF MEMBERS AND OTHER PERSONS

Sec. 1. All members of the Kickapoo Traditional Tribe of Texas residing within the jurisdiction of the Tribe as defined in Article I shall enjoy equal rights to life, liberty, industrial pursuits, and the economic resources and activities of the Tribe.

Sec. 2. The Kickapoo Traditional Tribe of Texas, in exercising its powers of self-government shall not:

- (a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
- (b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (c) Subject any person for the same offense to be twice put in jeopardy;
- (d) Compel any person in any criminal case to be a witness against himself;
- (e) Take any private property for a public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
- (g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of \$5,000.00 or both, or such other terms or penalties as may be authorized by federal law;
- (h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- (i) Pass any bill of attainder or ex post facto law; or;
- (j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

ARTICLE XI - APPEALS BOARD

In the absence of the establishment by the Traditional Council of a court system or other permanent dispute resolution mechanism, an Appeals Board shall be established within a reasonable time after the adoption and approval by the Secretary of the Interior of the constitution. The Appeals Board shall consist of three tribal members appointed by the Traditional Council for four (4) year terms, except no board member may serve more than two (2) consecutive terms. The board must satisfy the same eligibility requirements as candidates for the Traditional Council. The Appeals Board shall only hear appeals from final decisions of the Election Board, from final decisions of the Traditional Council regarding removal of council members, and disputes concerning forfeiture of office or the calling of regular or special meetings of the Traditional Council or the General Membership. The Appeals Board may only decide issues of procedure as set forth in the Constitution or ordinances, and issues of fact. Decisions of the Appeals Board shall be majority vote and shall be final. The Appeals Board shall adopt appropriate rules and regulations concerning procedures for appeals, including at a minimum the right to adequate notice, the right to a hearing and to be represented at the hearing, and the opportunity to present evidence and to hear evidence against him or her. Board members shall be independent and impartial, and shall not sign any petitions for initiatives, referendums, recall or the calling of meetings. Members of the Board may only be

removed through the recall procedures set out in Article VI, Sec. 4. Members of the Traditional Council may not be appointed to the Appeals Board. Upon the establishment of a court system and/or other dispute resolution mechanism with authority to hear the appeals and disputes covered by this Article, the Appeals Board shall be disbanded.

ARTICLE XII - AMENDMENTS

Amendments to this Constitution may be proposed by a valid petition signed by at least one hundred (150) qualified voters, or by a majority vote of the Traditional Council. Upon receipt of a proposed amendment, a special election shall be called by the Secretary of the Interior pursuant to applicable regulations.

If in such election at least thirty percent (30%) of eligible voters of the Tribe vote in the election, and the amendment is adopted by a majority vote, it shall be in effect upon approval by the Secretary of the Interior.

ARTICLE XIII - SAVINGS CLAUSE

All ordinances and resolutions heretofore enacted by the Traditional Council shall remain in full force and effect except to the extent they are inconsistent with this Constitution.

ARTICLE XIV - SEVERABILITY

If any part of this Constitution is held by a Federal Court of competent jurisdiction to be invalid or contrary to the U.S. Constitution or federal law, the remainder of the constitution shall remain in full force and effect.

ARTICLE XV - ADOPTION

This Constitution, when adopted by a majority vote of the qualified voters of the Kickapoo Traditional Tribe of Texas voting in an election called for that purpose by the Secretary of the Interior, and conducted pursuant to federal regulations, provided, that at least thirty percent (30%) of those entitled to vote cast ballots in that election, shall become effective when approved by the Secretary of the Interior.

ARTICLE XVI - CERTIFICATION OF RESULTS OF ELECTION

Pursuant to an order issued by John Geary, Acting Deputy to the Assistant Secretary of the Interior, Indian Affairs, on April 21, 1989, the Constitution of the Kickapoo Traditional Tribe of Texas, was submitted for adoption to the qualified voters of the Kickapoo Traditional Tribe of Texas and was on May 27, 1989 duly adopted by a vote of 132 for, and 15 against, in an election in which at least thirty percent (30%) of the 198 persons entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934, (48 Stat. 984), as amended.

Signature not readable

Chairman, Election Board

J. Suzanne Chaney

Election Board Member

Signature not readable

Election Board Member

Margarita Salazar

Election Board Member

Estella Gonzalez

Date: 5-27-89

CERTIFICATE OF APPROVAL

I, Hazel E. Elbert, Deputy to the Assistant Secretary - Indian Affairs (Tribal Services), by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 209 D.M.8.3., do hereby approve the Constitution of the Kickapoo Traditional tribe of Texas that was duly adopted on May 27, 1989; provided, that nothing in this approval shall be construed as authorizing any action under the constitution that would be contrary to Federal Law.

Hazel E. Elbert _____

Deputy to the Assistant Secretary - Indian Affairs (Tribal Services)

Washington, D.C.

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